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COUNCIL JOURNAL

OF THE

SECOND SESSION

OF THE

LEGISLATIVE ASSEMBLY

OF THE

TERRITORY OF MONTANA,

BEGUN AND HELD AT VIRGINIA CITY, THE CAPITAL OF SAID TERRITORY, ON MONDAY, MARCH 5, A D 1866, AND CONCLUDED APRIL 14, A. D 1866.

PUBLISHED BY AUTHORITY.

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1870.

FEDERAL OFFICERS.

Secretary and Acting Governor,

THOMAS F MEAGHER, ...	VIRGINIA CITY

Supreme Judges,

1st District—H. L HOSMER, *Chief Justice*,	VIRGINIA CITY.
2d District—LORENZO P. WILLISTON, *Associate Justice*,	DEER LODGE CITY
3d District—LYMAN E. MUNSON, *Associate Justice*,	HELENA.

U. S. District Attorney,

EDWARD B NEALLEY, ...	DEER LODGE CITY

U. S. Marshal,

GEORGE M. PINNEY, . . .	——

TERRITORIAL OFFICERS.

Auditor,

JOHN H MING, ...	——

Treasurer,

JOHN S ROCKFELLOW, ...	——.

Superintendent of Public Instruction,

A. M. S. CARPENTER, ...	——.

B361.33

MEMBERS OF THE COUNCIL.

ANSON S POTTER, *President*
CHARLES S BAGG.
E. D LEAVITT
W J McCORMICK.
NATHANIEL MERRIMAN.
E. F PHELPS.
J G. SPRATT

R. J MITCHELL, *Secretary*
E S CALHOUN *Assistant Secretary*
WM D LEECH, *Enrolling Clerk*
A. H BARRETT, *Engrossing Clerk.*
JOHN BIGLER, *Sergeant-at-Arms*
GEORGE REID, *Doorkeeper.*

COUNCIL JOURNAL.

SECOND SESSION.

FIRST DAY.

VIRGINIA CITY, MONTANA TERRITORY,
MARCH 5TH, 1866.

In accordance with the Proclamation of THOMAS FRANCIS MEAGHER, Acting Governor of the Territory of Montana, calling the Legislative Assembly to convene at the Capital of said Territory, on the 5th day of March, 1866, and the following gentlemen being present in the apartment furnished by the Acting Governor as the Council Chamber, to wit:

A. S. Potter, J. G. Spratt, R. Lawrence, W. J. McCormick, N. Merriman;

Thomas Francis Meagher, Secretary of the Territory, called the Council to order, and instructed them to organize according to law.

Whereupon, on motion of Mr. Lawrence, Mr. Potter was chosen as temporary chairman of the Council, T. W. Telyaferro as temporary Clerk, and R. N. Farley as temporary Sergeant-at-Arms.

Mr. Potter in the chair.

On motion of Mr. McCormick, a Committee of two was appointed to wait upon the Secretary of the Territory, and request him to furnish the Council with a list of the gentlemen entitled to a seat in the Council.

The Chair appointed Messrs. McCormick and Merriman as said Committee.

The Committee asked until 2 o'clock P. M. to make their report, which was granted by a vote of the Council, to which hour the Council adjourned.

Afternoon Session.

The Council met pursuant to adjournment, and Mr. McCormick, from the Committee appointed to wait on the Secretary of the Territory, reported the following communication:

Executive Office, Territory of Montana,
Virginia City, March 5, 1866.

To the Legislative Council of Montana Territory:

Gentlemen—I have the honor herewith to transmit the names of the members elected to the Legislative Council of said Territory, as appears by the returns made to this office from the several counties of said Montana Territory:

Beaver Head County—E. D. Leavitt, and E. F. Phelps.

Madison County—Charles S. Bagg, Anson S. Potter, and J. G. Spratt.

Missoula, Deer Lodge and Choteau Counties—W. J. McCormick.

Jefferson County—Nathaniel Merriman.

All of which is respectfully submitted.

I have the honor, gentlemen, to be,
Very respectfully,
Your obedient servant,

[By order of Thomas Francis Meagher.

D. H. Hopkins,
Private Secretary.

On motion of Mr. McCormick, the roll of the Council was called, as furnished by the Secretary.

Present—Messrs. Bagg, McCormick, Merriman, Phelps, Potter, and Spratt.

On motion of Mr. McCormick, Judge Wm. Y. Lovell was requested to administer the oath of office to the members present, which was done. And Messrs. McCormick, Phelps and Spratt were sworn in by Wm. Y. Lovell, Probate Judge of Madison county.

Mr. Phelps offered the following resolution, which was adopted:

Resolved, That a Committee of three be appointed to report on the qualifications of members.

And the chair appointed as such committee, Messrs. Phelps and McCormick.

Mr. Merriman offered the following:

To the President and Council of Montana Territory:

GENTLEMEN—I hereby give notice that I claim a seat in this Council by virtue of a certificate herewith submitted.

(Signed) R. LAWRENCE.

EXECUTIVE OFFICE, MONTANA TERRITORY,
BANNOCK CITY, Nov. 8th, 1864.

To all who shall see these presents, greeting:

Know ye, that at an election held in Madison county, on Monday, October 24th, 1864, and according to the official return thereof, Robert Lawrence was duly elected a member of the Territorial Council of said Territory.

In testimony whereof, I have hereunto set my hand and seal this 8th day of November, A. D. 1864.

(Signed) SYDNEY EDGERTON,
Governor of Montana Territory.

R. N. HILL,
Private Secretary.

All of which was, on motion of Mr. Spratt, referred to the Committee on Credentials.

Mr. Spratt moved that Mr. Lawrence, as a contestant, be allowed a seat on this floor until the contest be disposed of. Carried.

Mr. McCormick moved that the Council do now proceed to the permanent organization by the election of permanent officers, and that the vote be taken first for a permanent chairman of the Council, which vote shall be by ballot. Carried.

Mr. Merriman was appointed as Teller, and the Council proceeded to take the vote for Chairman.

Mr. McCormick nominated A. S. Potter. Mr. Merriman nominated C. S. Bagg. Mr. Bagg nominated J. C. Spratt.

The roll was called, and Mr. Potter received four votes. Mr. Spratt received one vote. Mr. Leavitt received one vote. Total, six votes.

Whole number of votes cast, six, and Mr. Potter having received the highest number of votes, was declared duly elected Chairman of the Council.

The election of Secretary of the Council being in order—

Mr. McCormick nominated R. J. Mitchell, and Mr. Mitchell having received five votes, was declared duly elected Secretary.

Mr. McCormick then nominated Mr. E. S. Calhoun as Assistant Secretary, and Mr. Merriman nominated Frank Devewell for the same office.

Mr. Calhoun received three votes; Frank Devewell one vote.

Mr. E. S. Calhoun having received the largest number of votes, was declared duly elected Assistant Secretary.

Mr. McCormick nominated Wm. D. Leech for the office of Enrolling Clerk, and there being no one else in nomination, Mr. Leech was declared elected.

Mr. Merriman nominated A. H. Barrett as Engrossing Clerk. Mr. McCormick nominated Henry Angel. Mr. Phelps nominated Mr. Charles Trowbridge.

On the fourth ballot, Mr. Barrett received four votes; Mr. Trowbridge received two votes.

And A. H. Barrett, having received the highest number of votes, was declared duly elected as Engrossing Clerk.

Mr. McCormick nominated John Bigler for the office of Sergeant-at-Arms. Mr. Bagg nominated Mr. Farley. Mr. Spratt nominated N. Berry.

Mr. Bigler received four votes. Mr. Farley received one vote. Mr. Berry received one vote.

John Bigler having received the highest number of votes cast, was declared duly elected Sergeant-at-Arms.

Mr. Merriman nominated R. N. Farley for Doorkeeper of the Council Chamber. Mr. McCormick nominated John McCarty. Mr. Spratt nominated George Reid.

George Reid received five votes, and was declared duly elected.

The following names were placed in nomination for the office of Page: Masters Johnson, Mathews, Farley, and Snell.

And Master Johnson, having received the highest number of votes, was declared duly elected Page.

Charles Freeler and John McCarty were placed in nomination for Fireman; and Charles Freeler receiving the highest number of votes, was declared elected Fireman.

At the request of the Council, J. W. Taliaferro, Justice of the Peace, administered the oath of office to the Chairman of the Council, who, in turn, administered the oath to all of the above named officers elect.

On motion, the Council adjourned until to-morrow, March 6th, 1866, at 9 o'clock, A. M.

A. S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

SECOND DAY.

MARCH 6, 1866

Council met at 9 o'clock, A. M., pursuant to adjournment. Mr. President in the chair.

Roll called. Absent—Messrs. Bagg and Leavitt.

Quorum present.

The Journal of the previous day read and approved.

Mr. McCormick offered a resolution "That His Excellency the Acting Governor be requested to furnish each member of the Council a printed copy of the rules adopted for its government."

On motion of Mr. Spratt, the above resolution was adopted.

No motion being before the Council, the names of the standing committees were read by the President as follows:

Ways and Means—Messrs. McCormick, Phelps, and Leavitt.
Judiciary—Messrs. Spratt, McCormick, and Bagg.
Internal Improvement—Messrs. Merriman, Phelps, and Leavitt.
Public Lands—Messrs. Leavitt, Phelps, and Merriman.
Federal Relations—Messrs. Bagg, McCormick, and Merriman.
Education—Messrs. McCormick, Bagg, and Phelps.
Towns and Counties—Messrs. Spratt, Bagg, and Leavitt.
Military Affairs—Messrs. Bagg, McCormick, and Phelps.
Incorporations—Messrs. Spratt, McCormick, and Leavitt.
Agriculture and Manufactures—Messrs. Bagg, Merriman, and Phelps.

Elections—Messrs. McCormick, Bagg, and Leavitt.
Indian Affairs—Messrs. Leavitt, Phelps, and Merriman.
Mines and Minerals—Messrs. Bagg, Merriman, and Spratt.
Engrossment—Messrs. McCormick, and Merriman.
Enrollment—Messrs. Bagg, and Phelps.

Mr. Merriman moved the names of the standing committees be ordered printed, and a copy be given to each member of the Council.

On motion of Mr. McCormick, the Council adjourned to 2 o'clock.

AFTERNOON SESSION.

Council met at 2 o'clock, P. M., pursuant to adjournment. Mr. President in the chair.

Roll called. Absent—Mr. Leavitt.

Quorum present.

Mr. McCormick moved that a committee of two be appointed, in conjunction with a like committee upon the part of the House, to wait upon His Excellency the Governor, and inform him that the Legislature is now organized and ready to receive any communication that he may have to make. Carried.

Mr. McCormick moved to reconsider the motion.

Mr. McCormick moved that a committee be appointed to wait upon the Governor to inform him that the Council is organized, and ready to receive any communication he may have to make. Carried.

Messrs. Spratt and McCormick were appointed said committee.

Committee to wait upon the Governor report His Excellency has no communication to make at present.

Resolution received from the House of Representatives—

That the Clerk be instructed to inform the Council that the House of Representatives is organized by electing Mr. Mayhew Speaker of the House, and ready to receive any communication that body may have to make to us.

Message was received from the House of Representatives for the Council to meet in the Senate Chamber at 2 o'clock, P. M., in Joint Convention, to hear the Message.

Mr. Merriman moved the resolution and message be received and adopted. Carried.

Council convened in their chamber again at 2½ o'clock, P. M., and, on motion of Mr. McCormick, adjourned until to-morrow at 9 o'clock, A. M.

A. S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

THIRD DAY.

MARCH 7, 1866.

Council met at 9 o'clock, pursuant to adjournment. Mr. President in the chair.

Roll called—Messrs. Leavitt and Phelps absent.

Quorum present.

Journal of preceding day read and approved.

Mr. Phelps appeared in his chair.

Mr. McCormick from the Committee on Credentials, stated that he is not ready to report.

The following notices were submitted:

Mr. Spratt gave notice that he would, on to-morrow or some subsequent day, ask leave to introduce a bill in relation to descents and distribution of estates of dead persons.

Mr. Spratt gave notice that he would, on to morrow introduce a bill in relation to dower.

Mr. Spratt gave notice that he would, on to-morrow, or some subsequent day, introduce a bill granting a bill charter to certain individuals for the construction and maintenance of a good practicable road from a point on the Bannack and Salt Lake road, a few miles north of the Junction, to run through the Red Butte Hills, across the Black Tail Deer creek, connecting with the People's road to Edgerton and Deer Lodge county, and terminating at a point on Stinking Water river at or near Lorain ranch.

Mr. Merriman gave notice that he would, on to-morrow or some subsequent day, introduce a bill to incorporate Middle Missouri River Ferry Company.

Mr. McCormick gave notice that he would, on to-morrow or some subsequent day, introduce a bill amendatory of an act to provide revenue for the Territory, and other purposes.

Also, a bill amendatory of the attachment law.

Mr. Merriman gave notice, that he would, on to-morrow or some subsequent day, introduce a bill to amend an act entitled "An Act to incorporate the Helena Wagon Road Company."

Mr. Merriman gave notice that he would, on to-morrow or some subsequent day, introduce a bill to organize the militia of Montana Territory.

Mr. Spratt gave notice that he would, on to-morrow or some subsequent day, introduce a bill to amend an act entitled "An Act to regulate the standard of weights and measures."

Mr. Phelps gave notice that he would, on to-morrow or some subsequent day, introduce a bill entitled "An Act to regulate mining partnerships."

Mr. Spratt gave notice that he would, on to-morrow or some subsequent day, introduce a bill to establish a territorial road running from Virginia City, by way of Hot Springs, to the town of Helena, in Edgerton county, and to incorporate a company for that purpose.

Mr. McCormick gave notice that he would, on to-morrow or some subsequent day, introduce a bill to secure Heald and White the right to construct and maintain a ferry across the Missouri river below the mouth of the Canon and above the mouth of Prickly Pear creek, in Edgerton county.

Mr. Merriman gave notice that he would, on to-morrow or some subsequent day, introduce an enabling act granting unto the citizens of Jefferson county the privilege of re-voting on the location of the county seat of said county at some future election, which will be mentioned in said act.

Mr. Phelps offered the following resolution:

Resolved, That one thousand (1,000) copies of the Governor's Message be printed for the use of the Council.

Mr. Bagg moved an amendment to the resolution, that fifteen hundred (1,500) copies be printed. Lost.

Yeas—Messrs. Bagg and Merriman—2.

Nays—Messrs. McCormick, Phelps, Spratt, and Potter—4.

Mr. Merriman moved that it read two thousand (2,000) copies. Lost.

Mr. McCormick called the previous question. Carried.

Yeas—Messrs. McCormick, Merriman, Phelps, and Spratt—4.

Nay—Mr. Bagg.

Mr. McCormick moved that one thousand (1,000) copies of the Governor's Message be printed in pamphlet form. Carried.

Mr. Spratt offered the following resolution:

Resolved, That the freedom of the Council Chamber be tendered to Professor Goldricks of the Salt Lake Vidette, and the members of the press of the Territory generally.

Mr. Bagg offered the following resolution:

Resolved, That as the sense of the Council, the thanks of the Legislative Assembly are due to His Excellency Thomas Francis Meagher, for the choice and convenient room prepared for their reception.

Mr. Spratt moved that the Sergeant-at-Arms be instructed to procure locks and keys for all the desks in the Council Chamber, also, see that the doors are securely fastened.

Mr. McCormick moved that the Sergeant-at-Arms be instructed to procure mucilage for every member of the Council, also, a higher chair for the Page.

Mr. Merriman, chairman of Committee on Joint Rules and Orders, reported as follows:

That they have examined the Joint Rules and Orders of the two Houses of the First Legislature of Montana Territory, and recommend their adoption for the government of both Houses in Joint Session.

Report received.

Communication from the

EXECUTIVE OFFICE,
TERRITORY OF MONTANA.

To the Honorable President of the Council:

SIR—I have the honor herewith to transmit to you a letter this morning handed to me by Mr. Neil Howie, Deputy United States Marshal, by which it appears the long threatened hostilities of the Blood and Piegan Indians against the whites on the unprotected border of our Territory have assumed a decided shape, and I would respectfully suggest and urge the matter before your honorable body, and earnestly pray you may devise some means by which our fellow citizens may receive an adequate and practical protection in their courageous development of the Territory.

I have the honor to be most faithfully,
Your ob't servant,
THOMAS FRANCIS MEAGHER,
Acting Governor Territory of Montana.

Referred to a Select Committee, consisting of Messrs. Bagg, McCormick, and Phelps.

On motion of Mr. Bagg, Council adjourned until 2 o'clock.

AFTERNOON SESSION.

Mr. President in the chair.

Roll called—Mr. Leavitt absent.

Quorum present.

Mr. McCormick gave notice that he would, on to-morrow or some subsequent day, introduce a bill to incorporate the Big Black Foot and Pacific Wagon Road Company.

Mr. McCormick gave notice that he would, on to-morrow or some future day, introduce "An Act to provide for the collection of taxes from non-resident stock owners."

Mr. Bagg moved that the rule prohibiting smoking in the Council Chamber during the session of the Council be enforced. Carried.

Mr. McCormick moved an amendment that chewing tobacco be prohibited also by the members. Carried.

Mr. Bagg offered the following resolution:

Resolved, That the Chief Clerk of this Council request His Excellency Thomas Francis Meagher to forward the copies of all the laws passed by the First Legislative Assembly of the Territory of Montana for the inspection of the members.

Carried.

On motion of Mr. Merriman, the Council adjourned.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

FOURTH DAY.

MARCH 8, 1866.

Council met at 10 o'clock, pursuant to adjournment. Mr. President in the chair.

Journal of previous day read and approved.

Roll called—Mr. Leavitt absent.

Quorum present.

Charles S. Bagg, chairman of Special Committee, to whom was referred the Governor's communication respecting the depredations of certain hostile Indians, presented the following report:

That, in the opinion of said Committee, there is not sufficient information obtained at present to warrant any action on the part of this House, and ask further time to collect further information before they make their final report.

C. S. BAGG, *Chairman*.

Report received, and Committee discharged for the present, subject to the call of the Council.

Mr. McCormick, according to previous notice, asked leave to introduce C. B. No. 1, entitled "An Act defining the duties of the Territorial Auditor and Treasurer of the Territory of Montana," which was read first and second time, by its title.

Mr. Bagg moved indefinite postponement. Lost.

Referred to Special Committee, consisting of Messrs. McCormick, Spratt, and Bagg.

Mr. McCormick, according to previous notice, asked leave to introduce C. B. No. 2, "An Act defining the duties of county treasurer and the payment of county warrants."

Leave granted, and bill read first and second time by its title.

Mr. Bagg moved a rejection of the bill on account of "amphibology."

Referred to Select Committee, consisting of Messrs. McCormick, Spratt, and Bagg.

Mr. Spratt, according to previous notice, asked leave to introduce the following: C. B. No. 3, "An Act concerning descents and distributions."

Bill read first and second time, and referred to Committee on Judiciary.

Communication from House of Representatives received, and laid over until to-morrow.

Mr. Spratt, according to previous notice, asked leave to introduce C. B. No. 5, "An Act entitled an act of weights and measures."

Read first and second time, and referred to Committee on Ways and Means.

Mr. Spratt, according to previous notice, asked leave to introduce C. B. No. 4, "Concerning dower."

Read, and referred to Committee on Judiciary.

Mr. Spratt offered the following resolution:

Resolved, That it be the duty of the Chief Clerk of the Council to communicate to the House of Representatives each morning during the session a statement of all bills presented the day previous, and notices of the introduction of bills at some future

day; and that the House be and are hereby respectfully requested to send the Council a similar statement.

Adopted.

The Sergeant-at-Arms announced a message from the Governor, which was read.

Mr. Bagg moved the Council go into executive session to consider the Governor's message. Carried.

Mr. Merriman moved the Council adjourn until 2 o'clock, P. M.

AFTERNOON SESSION.

Council met at 2 o'clock, pursuant to adjournment. Mr. President in the chair.

Roll called—absent, E. D. Leavitt.

Quorum present.

Mr. McCormick presented a memorial of the county board of Madison county.

Referred to Special Committee, consisting of Messrs. McCormick, Spratt, and Bagg.

Mr. McCormick offered a remonstrance against the removal of the county seat of Jefferson county.

Received, and referred to the Committee on Towns and Counties.

Mr. Phelps gave notice that he would, on to-morrow or some future day, introduce "An Act to regulate the fees of officers."

Mr. Spratt gave notice that he would, on to-morrow or some future day, introduce a bill, entitled "An Act to divide the present county of Gallatin into two counties, and define the boundaries thereof."

Mr. Merriman gave notice that he would, on to-morrow or some future day, introduce "An Act requiring the clerk of the District Court to give bonds."

Mr. Spratt asked leave, in accordance with previous notice, to introduce C. B. No. 6, "An Act to authorize James W. Ryon to construct and maintain a toll road from a point on the Salt Lake road, at or near what is called the Junction, in Beaver Head county, to a point on Stinking Water river, in Madison county."

Mr. McCormick moved the bill be indefinitely postponed. Motion withdrawn.

Mr. Leavitt moved the bill be laid on the table.

The yeas and nays were called, and were:
Yeas—Messrs. Leavitt, McCormick, Merriman, and Mr. President—4.
Nays—Messrs. Bagg, Phelps, and Spratt—3.

The bill was laid on the table.

Mr. Spratt asked leave, in accordance with previous notice, to introduce C. B. No. 7, "An Act to authorize John S. Rockfellow and others to construct a toll road from Virginia City, by way of Hot Springs District and Crow Creek, to Helena.

Mr. Bagg moved the reading of the bill be suspended.

Mr. Leavitt moved it be laid on the table.

Yeas and nays called, which were:
Yeas—Messrs. Leavitt, McCormick, and Potter—3.
Nays—Messrs. Bagg, Merriman, Phelps, and Spratt—4.

Motion lost.

Mr. McCormick moved to indefinitely postpone.

Motion withdrawn.

Mr. Leavitt moved it be referred to Committee on Incorporations.

Yeas and nays called, which were:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—None.

It was so referred.

Mr. Leavitt gave notice that he would, on to-morrow or some subsequent day, introduce a bill to incorporate the Fort Benton and Salt Lake Telegraph Company.

Mr. Phelps asked leave, in accordance with previous notice, to introduce C. B. No. 8, "An Act concerning partnerships for mining purposes."

Reading suspended.

Mr. Bagg moved its rejection. Lost.

Mr. Leavitt moved it be referred to the Committee on Judiciary. Carried.

Mr. Merriman presented a resolution that a Committee of three be appointed to analyze and assign the different parts of the Governor's message to the several appropriate Committees of the Council. Carried.

The President appointed Messrs. Merriman, Bagg, and McCormick.

Mr. Merriman asked leave, in accordance with previous notice, to introduce C. B. No. 9, "An Act to incorporate the Marshall Ferry and Bridge Company."

Mr. Leavitt moved to lay on table.

Not supported.

Referred to Committee on Incorporations.

Mr. Bagg moved that the rules of the old House be adopted. Carried.

Mr. Bagg moved a Committee be appointed on Printing.

Mr. Leavitt amended the motion by having a permanent Committee appointed. Carried.

Chair appointed the following Committee on Printing: Messrs. Bagg, Leavitt, and McCormick.

Mr. Merriman asked leave to introduce, in accordance with previous notice, C. B. No. 10, "Requiring clerks of courts to give bonds of $10,000."

Mr. Leavitt offered, as an amendment, that $5,000 be inserted in the place of $10,000.

Mr. McCormick moved that $2,500 be inserted instead of $5,000.

Last amendment agreed to.

Bill read first and second time, and referred to Committee on Judiciary.

Council adjourned until 10 o'clock, A. M., to-morrow, March 9th.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

FIFTH DAY.

MARCH 9, 1866.

Council met at 10 o'clock, pursuant to adjournment. Mr. President in the chair.

Roll called—Messrs. Leavitt and Spratt absent.

Quorum present.

Journal of previous day read and approved.

Mr. Bagg moved that the Sergeant-at-Arms be instructed to call the absent members.

Messrs. Leavitt and Spratt appeared in their seats.

Mr. Spratt, chairman of Committee on Judiciary, to whom was referred C. B. No. 4, begged leave to report the same back and recommend its passage.

Report received, and bill placed on file.

Mr. McCormick, chairman of Select Committee, to whom was referred C. B. No. 2, reported that they have had the same under consideration, and report it back to the Council with the recommendation that it be passed, with the following amendments to sections 3 and 4:

"And it shall be the duty of such treasurer to file under oath a true copy of such notice in the office of the clerk of the county court of his county, which clerk shall file and preserve the same in his office, which notice, or a duly authenticated copy thereof, shall be *prima facie* evidence of such posting."

"SEC. 4. But if the Territorial Treasurer shall fail to draw upon the county treasurer by draft, check or otherwise, for said amount so reported due the Territory, by the county treasurer, at the expiration of six months from the date of said notice, then the county treasurer shall pay over to the Territorial Treasurer forthwith, all the money in his hands due the Territory."

The following amendment was introduced as a new section, viz.:

"SEC. 6. That the county treasurer shall receive the following fees, beginning with every fiscal year: Twelve and one-half per cent. on the first five thousand dollars; for all sums between five and ten thousand dollars, eight per cent.; for all sums over ten thousand dollars, three per cent.; four per cent. for receiving and paying out all moneys other than school or poor taxes.

"For registering every county warrant, twenty-five cents, to be paid by the party presenting the same.

"For every license issued, one dollar, to be paid by the person applying for the same.

"For every mile traveled going and returning in making settlement with the Territorial Auditor, twenty-five cents.

"For levying and selling property for taxes, the same fees as the sheriffs, to be paid by the delinquent."

Reading of bill suspended, and ordered to be engrossed.

Mr. Bagg, chairman of Committee on Ways and Means, to whom was referred C. B. No. 5, reported that they have had the same under consideration, and report back to the Council, with the recommendation that it pass.

Report received and adopted, and bill placed upon file.

Mr. Spratt, chairman of Committee on Judiciary, to whom was referred C. B. No. 3, report the same back to the Council and recommend its passage.

Report received, and bill placed upon file.

Mr. Bagg gave notice that he would, on to-morrow or some

future day, introduce a bill to incorporate the Great Beaver Head Canon Wagon Road Company.

Mr. McCormick asked leave, according to previous notice, to introduce C. B. No. 12, "An Act to construct a road from Rhea City to Pacific City.

Read first and second time by its title.

Mr. Merriman moved the bill be indefinitely postponed.

Not supported.

Mr. Leavitt moved the bill be laid on the table.

Yeas and nays called for.

Yeas—Messrs. Bagg, Leavitt, Merriman, and Mr. President —4.

Nays—Messrs. McCormick, Phelps, and Spratt—3.

Carried.

Mr. McCormick moved that the Sergeant-at-Arms be instructed to procure for the use of the Council twenty-one copies of the Montana Post, and twenty-one copies of the Montana Democrat, each, weekly, during the session of the Legislature.

Mr. Bagg moved an amendment, that fifty copies of each be inserted in place of twenty-one. Accepted.

Mr. Merriman offered, as an amendment to the amendment, that fifty copies of the Radiator be also inserted.

Yeas and nays being called for, were—

Yeas—Messrs. Bagg, McCormick, and Merriman—3.

Nays—Messrs. Leavitt, Phelps, Spratt, and Mr. President—4.

Lost.

Resolution discussed at length, and Mr. McCormick offered the following resolution, as amended by Mr. Spratt:

Resolved, That the Sergeant-at-Arms be instructed to procure for the use of the Council, two copies, daily, of any paper, for the use of each member, they may require during the session of this Legislature.

Yeas and nays being called for, were—

Yeas—Messrs. Leavitt, Phelps, Spratt, and Mr. President—4.

Nays—Messrs. Bagg, McCormick, and Merriman—3.

Carried.

Mr. McCormick moved to lay on the table.

Yeas and nays being called for, were—

Yeas—Messrs. Bagg and McCormick—2.

Nays—Messrs. Leavitt, Merriman, Phelps, Spratt, and Mr. President—5.

Lost.

Previous question being in order, the yeas and nays called, were—

Yeas—Messrs. Bagg, Leavitt, Merriman, Phelps, Spratt, and Mr. President—6.

Nay—Mr. McCormick.

Resolution adopted.

Mr. Phelps offered the following resolution:

Resolved, That all public or general acts or bills, after reference to Committee and before their final passage, be printed, and that the Committee on Printing be ordered to furnish the Territorial Printer with a copy of such acts or bills.

Carried.

Mr. Merriman offered the following resolution:

Resolved, That when the order of unfinished business is called, that we proceed to the election of a Chaplain for this Council.

Lost.

House adjourned until 2 o'clock.

AFTERNOON SESSION.

Council convened at 2 o'clock, P. M., pursuant to adjournment.

Mr. President in the chair.

Roll called—all the members present.

House Bill No. 1 was called, and read first and second time.

Mr. Leavitt moved the rule be suspended, and the bill pass to its third reading. Carried.

Mr. Bagg moved that we increase the salaries of the officers now in the Territory. Lost.

Mr. Spratt moved a reconsideration of the bill.

Mr. Bagg moved that the bill be so amended as to read—

"That all officers of the Territory who have additional pay given them and voted them at the First Legislative Assembly, and who have been absent from the Territory, said pay shall cease from the first day of March, 1866."

Supported by Mr. Merriman.

Mr. Spratt moved that the Sergeant-at-Arms be instructed to procure the original bill from the House. Carried.

Mr. McCormick moved that further discussion of this bill be made the special order for to-morrow, at 10 o'clock. Carried.

House Bill No. 2 received from the House. Read first and second time.

Yeas and nays called on the rejection of the bill, which were—

Yeas—Messrs. Leavitt, Merriman, and Phelps—3.

Nays—Messrs. Bagg, McCormick, Spratt, and Mr. President—4.

Lost.

Mr. McCormick moved the rule be suspended, and it pass to its third reading.

Yeas and nays called, which were—

Yeas—Messrs. Bagg, McCormick, Merriman, Spratt, and Mr. President—5.

Nays—Messrs. Leavitt and Phelps—2.

Carried.

Rule suspended, and roll called on its final passage.

Yeas—Messrs. Bagg, McCormick, Spratt, and Mr. President—4.

Nays—Messrs. Leavitt, Phelps, and Merriman—3.

Passed, and ordered sent to the House.

Mr. McCormick moved that fifty copies of C. B. No. 2, as engrossed, be printed.

Mr. Spratt moved an amendment, that seventy-five (75) copies be printed. Accepted.

Mr. Merriman moved that one hundred copies be printed.

The original question being in order, the yeas and nays were called, which were—

Yeas—Messrs. McCormick, Merriman, Spratt, and Mr. President—4.

Nays—Messrs. Bagg, Leavitt, and Phelps—3.

C. B. No. 6, second reading by its title.

On motion, the bill was taken from the table and referred to Committee on Incorporations.

C. B. No. 4, Mr. Spratt moved that fifty copies be printed.

Mr. Bagg moved an amendment, that one hundred copies be printed.

Accepted, and carried.

C. B. No. 5, Mr. Bagg moved that one hundred copies be printed. Lost.

Mr. Spratt moved that fifty copies be printed. Carried.

C. B. No. 8, Mr. Bagg moved that one hundred copies be printed. Carried.

C. B. No. 12, Mr. Merriman moved that the bill be taken from the table.

Yeas and nays called, which were—
Yeas—Messrs. McCormick, Merriman, Phelps, and Spratt—4.
Nays—Messrs. Bagg, Leavitt, and Mr. President—3.

Referred to Committee on Incorporations.

Mr. Bagg gave notice that he would, on to-morrow or some subsequent day, introduce a bill to naturalize Doe.

Mr. Merriman gave notice that he would, on to-morrow or some subsequent day, introduce "An Act to incorporate the Rocky Mountain and New York Exploring, Prospecting and Mining Company."

Mr. McCormick offered the following resolution:

Resolved, That the Territorial Auditor be requested to furnish, at his earliest convenience, to the Council, the number and amount of warrants drawn by him upon the Territorial Treasurer in payment of the code commission appointed by the First Legislative Assembly of the Territory, and whether said code commission and their employees are now receiving pay from the Territory for said service.

Referred to Special Committee, consisting of Messrs. McCormick, Bagg, and Phelps.

Mr. Bagg asked leave to introduce, according to previous notice, "An Act defining the jurisdiction and power of the probate courts of this Territory."

Read first and second time by its title, and referred to Committee on Judiciary.

Council adjourned until to-morrow, at 10 o'clock, A. M.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

SIXTH DAY.

MARCH 10, 1866.

Council convened at 10 o'clock, pursuant to adjournment. Mr. President in the chair.

Roll called—all the members present.

Journal of previous day read and approved.

Mr. Bagg's amendment to H. B. No. 1 as special order of previous day.

Mr. Bagg withdrew his amendment by consent of the Council.

Mr. Spratt offered the following amendment to H. B. No. 1. Supported.

Insert the following section after section first:

"SEC. 2. *Be it further enacted*, That all acts and parts of acts passed at the last session of the Legislative Assembly of the Territory of Montana, allowing additional or any compensation to the Governor, judges of the Supreme or District Courts, members of the Legislative Assembly, or any officer of the Council or House of Representatives of this Territory, be and the same are hereby repealed, and the Territorial Auditors and Treasurer are hereby forbidden from auditing, allowing, or paying any demand arising from or under such law or laws."

Mr. Bagg offered a substitute to H. B. No. 1. Supported. Yeas and nays called, were—

Yeas—Messrs. Bagg, and Merriman—2.

Nays—Messrs. Leavitt, McCormick, Phelps, Spratt, and Mr. President—5.

Mr. McCormick moved the bill be engrossed. Carried.

Mr. McCormick offered a petition from the citizens of Gallatin county to divide said county into two counties.

Referred to Committee on Towns and Counties.

Mr. Bagg offered a petition from the citizens of Beaver Head county to authorize the Great Beaver Head Wagon Road Company to locate and construct a wagon road through Beaver Head canon.

Referred to Committee on Incorporations.

Mr. Bagg also offered an affidavit of Wm. Stearger, which was referred to Committee on Incorporations.

Mr. Merriman, chairman of Select Committee, to whom was referred the Governor's Message, reported as follows:

That they have discharged the duties assigned them, and beg leave to recommend that—

So much of said Message as relates to the printing of the laws of the first Legislative Assembly be referred to Committee on Printing.

So much as refers to military be referred to Committee on Military Affairs.

So much as refers to Indian affairs be referred to Committee on Indian Affairs.

So much as refers to finance be referred to Committee on Ways and Means.

So much as refers to internal improvement be referred to Committee on Internal Improvements.

So much as refers to mines and minerals be referred to Committee on Mines and Minerals.

So much as refers to agriculture be referred to Committee on Agriculture and Manufactures.

So much as refers to education be referred to Committee on Education.

So much as refers to the Convention which is called to meet at Helena on the 26th of March, 1866, be referred to Committee on Federal Relations.

So much as refers to the calling of the Legislature be referred to the Committee on Judiciary.

So much as refers to the sale of mineral lands as asked in U. S. Senator Sherman's bill, and the efforts of certain citizens of the Territory of Idaho to have a part of our Territory cut off, be referred to a Committee of the Whole.

So much as refers to the solicitation of appropriations from the Federal Government for the building of a Capitol and penitentiary be referred to the Committee on Federal Relations.

Report received, and Committee discharged.

Committee on Credentials beg further time to report. Granted.

The following communication from the House was read:

Report of House Bills introduced and notice given on Friday, March 9th, 1866:

Mr. Parrott gave notice of "An Act establishing the fees of the probate courts of this Territory."

Mr. Maxwell gave notice of the following:

"An Act creating the county of Vivian, and establishing the county seat thereof."

"An Act authorizing Paul B. Anthony, J. H. Shober and E. S. Rowland to establish a toll road from Helena to Ophir City."

"An Act authorizing Joseph V. Stafford and John R. Stafford to establish a ferry across the Missouri river at Orgion gulch."

The following bill, introduced by Mr. Mimms, was read first and second time and referred:

H. B. No. 4, "An Act for the better observance of the Lord's Day."

Mr. McCullough introduced H. B. No. 5, "An Act authorizing Solomon H. Miller and his associates to build and keep a ferry on Jefferson river."

(Signed) JOHN F. RUCKER,
Chief Clerk, House of Representatives.

Mr. Bagg asked leave to introduce, according to previous notice, C. B. No. 14, "An Act to incorporate the Great Beaver Head Wagon Road Company."

Read first and second time, and referred to Committee on Incorporations.

Mr. Bagg asked leave to introduce, according to previous notice, C. B. No. 15, "To naturalize Doe." Rejected.

Mr. Merriman asked leave to introduce "An Act to incorporate the Rocky Mountain and New York Exploring, Prospecting and Mining Company."

Read first and second time, and referred to Committee on Incorporations.

Mr. McCormick asked leave to introduce, according to previous notice, C. B. No. 17, "An Act to divide the present county of Gallatin into two counties."

Read first and second time.

Mr. Leavitt moved the bill be referred to a Select Committee. Yeas and nays called, which were—

Yeas—Messrs. Leavitt, and Merriman—2.

Nays—Messrs. Bagg, McCormick, Phelps, Spratt, and Mr. President—5.

Mr. Leavitt moved it be laid on the table. Lost.

Mr. Phelps moved it be referred to Committee on Towns and Counties. Carried.

Mr. Leavitt moved that the Committee on Towns and Counties be instructed to make their report on C. B. No. 17 at 2 o'clock. Carried.

Mr. McCormick asked leave to introduce, according to previous notice, C. B. No. 18, "An Act to authorize John S. Meade and others to construct a toll road."

Read first and second time, and referred to Committee on Incorporations.

Council adjourned until 2 o'clock, P. M.

AFTERNOON SESSION.

Council convened at 2 o'clock, pursuant to adjournment. Mr. President in the chair.

Roll called—all the members present in their seats.

Committee to whom was referred C. B. No. 17, asked further time to report. Granted.

Mr. Merriman gave notice that he would, on to-morrow or some subsequent day, introduce "An Act to incorporate the Bannack Gold Mining Company."

Mr. Leavitt gave notice that he would, on to-morrow or some subsequent day, introduce "An Act to amend an act entitled an act concerning counties and county officers."

Mr. Phelps gave notice that he would, on to morrow or some subsequent day, introduce "An Act to amend section 185 of the criminal code of the Territory of Montana."

Mr. Bagg gave notice that he would, on to-morrow or some subsequent day, introduce "A Bill to divorce Lydia Burwick from Peter Burwick."

Mr. Bagg gave notice that he would, on to-morrow or some subsequent day, introduce a bill denominated "A general incorporation act."

Mr. Phelps gave notice that he would, on to-morrow or some subsequent day, introduce "An Act to provide for the drawing and summoning of jurors."

Mr. Leavitt gave notice that he would, on Monday or some subsequent day, introduce "An Act amendatory of an act defining the jurisdiction and powers of the probate court in this Territory."

Mr. Phelps gave notice that he would, on to-morrow or some future day, introduce "A Bill to incorporate the Gold Hill Mining and Tunneling Company."

Mr. Phelps, according to previous notice, asked leave to introduce C. B. No. 19, "An Act regulating the fees of officers."

Mr. Leavitt moved the rules be suspended for the further reading of the Bill. Carried.

Bill referred to Committee on Judiciary.

H. B. No. 1 called up for its third reading, and engrossed.

Mr. Merriman moved that fifty copies be printed. Yeas and nays called, which were—

Yeas—Messrs. Phelps, and Merriman—2.

Nays—Messrs. Bagg, Leavitt, McCormick, Spratt, and Mr. President—5.

C. B. No. 3 called for its third reading.

Mr. Spratt moved that fifty copies be printed. Carried.

Council adjourned till Monday at 10 o'clock, A. M.

A. S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

EIGHTH DAY.

MARCH 12, 1866.

Council convened pursuant to adjournment. Mr. President in the chair.

Roll called—Messrs. Leavitt and Merriman absent.

Mr. Bagg moved that the Sergeant-at-Arms be instructed to call the absent members.

Messrs. Leavitt and Merriman appeared, and took their seats.

Communication from the House read, as follows:

HOUSE OF REPRESENTATIVES,
Saturday, March 10th, 1866.

MR. PRESIDENT—I am instructed by the House to inform your honorable body that the following notices of the introduction of bills, and the following bills, have been introduced:

Mr. Mimms gave notice that he would, on to-morrow or some subsequent day, introduce "An Act entitled an act declaratory of the rights of occupancy of the public domain, except as against the United States."

Mr. Maxwell, pursuant to notice, introduced House Bill No. 6, entitled "An Act creating the county of Vivian, and establishing the county seat thereof." Read first and second time, and referred to the Committee on Towns and Counties.

Mr. Maxwell, pursuant to notice, introduced House Bill No. 7, entitled "An Act authorizing Paul B. Anthony, J. H. Shober and E. S. Rowland to construct a toll road from Helena to Ophir City." Read first and second time, and referred to Select Committee.

H. B. No. 2, entitled "An Act creating the militia of the Terri-

tory." Read third time, and on its final passage was lost. *Yeas*, none; *Nays*, 7.

Mr. Hanna gave notice that he would, on Monday or some subsequent day, introduce a bill entitled "An Act divorcing John F. Godfrey and Mary E. Godfrey.

Respectfully,

JOHN F. RUCKER,
Chief Clerk of the House.

Mr. Bagg, chairman of the Committee on Indian Affairs, to whom was referred the subject of the hostilities of the remorseless savages known as the Blackfeet nation of Indians, begged leave to report that the Committee have had the subject under consideration, and find that branches of the said Blackfeet Indians are arrayed in bloody hostility against the border settlements of this Territory, and have murdered our citizens, supposed to be four in number, wounding others, near Sun River bridge.

Further, that S. B. Mathers, a worthy and reliable citizen, informs your Committee that his train of twenty-six (26) wagons, is near the mouth of Milk river, where they are now corralled on account of the danger of such hostilities. Your Committee, being satisfied that such hostilities exist, and that the said savages will continue persistent in such hostilities in the future, would recommend that the sum of dollars be placed in the hands of the Governor, as the Council shall direct, to defray the necessary expenses of an expedition against said savages, and to rescue the property of our citizens at as early a day as possible.

Report received and adopted.

Mr. Bagg, chairman of the Committee on Agriculture and Manufactures, made the following report:

MR. PRESIDENT—Your Committee, to whom was referred that portion of the Governor's message respecting agriculture, beg leave to make the following report:

That the agricultural resources of the Territory of Montana, although great and diversified, should receive a cursory glance from the Legislative Assembly at this time, the agricultural interests being substratum to all the other interests of the Territory.

When we glance our eye over the map of Montana, we find the rich and extensive valleys of the Madison, Gallatin, Bitter Root, Prickly Pear, Sun River, Big Horn, Yellow Stone, Deer Lodge, and others, endowed by the hand of Providence with all the mysteries of hidden agricultural wealth, but divided by lofty mountains, which have in all other lands had a tendency to divide the citizens of a State or Territory. This tendency should, so far as we can, be obviated in this our beloved Montana.

Therefore, your Committee would recommend that a joint memorial be passed by the Council and House of the Legislature of Montana, memorializing Congress, asking an appropriation of fifty thousand dollars, to be applied to the building of an agricultural college, the location of which shall be prescribed by law, for the purpose of bringing the representative sons of the families that will reside in the various valleys mentioned into a proximity of pupilage in said college, that the Territory of Montana may never become alienated by the follies of envy and jealousy under the laws of self-independence, but shame the world by charity and forbearance, until our society shall become melted down into the table lands of love and mutual good will.

(Signed) CHARLES S. BAGG, *Chairman.*

The report was received and adopted.

Mr. Bagg, chairman of the Committee on Mines and Minerals, offered the following report:

Your Committee, to whom was referred that portion of the Governor's message relating to mines and minerals, beg leave to make the following report:

Your Committee find that there has been a bill introduced into the United States Senate, by the Hon. John Sherman, providing for the sale of the mineral lands of the United States, but have not been able to obtain a copy of the same, to learn in detail the provisions of said bill. Sufficient, however, for your Committee is it to know that it is proposed to sell the hard-earned rights of our citizens, invested through great deprivations and hardship upon the soil which, but for the enterprise of our citizens, would have been undeveloped, and traversed only by the foot of the ruthless savages in the Territory of Montana; that the said at-

tempt thus to sell the mineral lands in this Territory would be an unjust exercise of power on the part of Congress; would be unmerciful towards our enterprising citizens in the extreme; unworthy the fostering care of a magnanimous government, whose citizens have reclaimed so vast a territory without aid or protection from said government. Therefore, your Committee would recommend that there be passed a joint memorial protesting against the sale of any mineral lands contained within the borders of this Territory, being detrimental to individual enterprise and subversive of our rights as pioneers, and destructive of the best interests of all.

Report received and adopted.

Mr. Bagg, chairman of the Committee on Federal Relations, offered the following report:

Your Committee, to whom was referred so much of the Governor's message as relates to Federal Relations, beg leave to make the following report:

That in relation to the appointment of a Surveyor General, as recommended for the Territory, to survey the lands lately credited to the United States by the Blackfeet nation, with a view to quiet the land titles of this Territory, obtained through the successful and praiseworthy energy of His Excellency the Governor, and in relation to the estimates, and the recommendation of the Governor of fifty thousand dollars for the building of legislative chambers, committee rooms, offices of the United States Marshal, offices for all federal officers, United States prison, etc., etc., and for equipping and arming eight hundred and fifty strong of cavalry, the sum of fifty thousand dollars,—recommend said estimate as reasonable and proper, and that the Council confer with the House in a joint resolution to urge a favorable consideration and prompt action of the authorities at Washington on the subject.

Your Committee would further recommend that the Legislative Assembly memorialize Congress, praying for an appropriation of one hundred thousand dollars for the improvement between Fort Union and the mouth of the Maria, points on the Missouri river, to make the navigation of said river passable for two-thirds of the

year, it being the great commercial thoroughfare for our rich, beautiful and prospering Territory—the youngest and smartest daughter of all the Territories belonging to the great people's government of America.

All of which is respectfully submitted.

(Signed) CHARLES S. BAGG, *Chairman.*

Report received and adopted.

Mr. Merriman, chairman of the Committee on Internal Improvements, asked leave for further time to report. Granted.

Mr. Leavitt, chairman of Committee on Indian Affairs and Public Lands, asked further time to report. Granted.

Mr. Spratt, chairman of the Committee on Judiciary, asked for further time to report. Granted.

Mr. Spratt, from the Committee on Incorporations, reported back C. B. No. 7, and recommended its passage, with the following amendments:

That the blank in section 6, in fourth line, after the word "ox," be filled by inserting "$1.00."

That the blank after the word "oxen," in the twelfth line, be filled by inserting "$1.50."

That after the word "yoke," in the thirteenth line, the blank be filled with "50 cents."

That the blank after the word "head," in the seventeenth line, be filled with "5 cents."

That section 7 be amended by inserting, after the word "act," the following: "That said Company shall at all times keep said road, ferry and bridges in good repair and safe for traveling; that grade on said road shall in no place exceed seventeen feet to the one hundred; and any failure on the part of said Company to comply with the requirements of this act shall operate as a forfeiture of this charter, and all privileges conferred by this act upon said Company shall cease and be of no effect.

Report received, and Committee discharged.

Mr. Bagg, pursuant to previous notice, asked leave to introduce C. B. No. 20, "An Act to dissolve the bonds of matrimony between Lydia and Peter Burwick."

Read first and second time, and referred to Committee on Judiciary.

Mr. Phelps, pursuant to previous notice, asked leave to introduce C. B. No. 21, "An Act concerning summoning jurors."

Read first and second time, and referred to Committee on Judiciary.

Mr. Merriman, pursuant to previous notice, introduced C. B. No. 22, "An Act to incorporate the Bannack City Gold Mining Company."

Rules suspended, and referred to the Committee on Incorporations.

Mr. Merriman, pursuant to previous notice, introduced C. B. No. 23, "An Act amendatory of an act to incorporate the Helena Wagon Road Company."

Objected to, and bill withdrawn.

Mr. Merriman gave notice that he would, on to-morrow or some subsequent day, introduce "An Act to incorporate the Sun River Bridge and Ferry Company."

Mr. Merriman gave notice that he would, on to-morrow or some subsequent day, introduce "An Act to create a fund for the benefit of schools."

Mr. Phelps gave notice that he would, on to-morrow or some subsequent day, introduce "An Act to amend an act declaratory of the rights of occupancy of the public domain, except as against the United States."

Mr. Phelps gave notice of a bill to incorporate "The Horse Prairie and Big Hole River Wagon Road and Bridge Company."

Mr. Bagg gave notice of a bill "To authorize James Bowen and others to build a bridge across the Missouri river, near Whitney's Ranch."

Mr. Phelps gave notice of a bill to repeal an act "Concerning lost goods and estrays."

Mr. McCormick offered the following joint resolution:

Whereas, the Acting Governor, Thomas Francis Meagher, has called a convention at Helena, in the county of Edgerton, on the 26th day of March, 1866, composed of delegates chosen from the several counties of the Territory—

And whereas, on account of the deep snows on the main divide between the counties of Deer Lodge and Edgerton, and the uncertainty of the weather at that season of the year, as well as the utter impossibility of the delegates of the county of Missoula, on account of the deep snows on the Hell Gate river, to attend the said convention; and whereas, from present indications, the amount of, and important character of the business before the Legislature now in session, that body will not be able to conclude its labors in time to attend said convention; and whereas, several members of said Legislature are delegates to said convention, therefore—

Be it resolved by the Council, the House concurring, That His Excellency the Governor be, and hereby is respectfully requested to postpone said convention until Monday, the 9th day of July, A. D. 1866.

Mr. Leavitt moved an amendment, to strike out all after the word "convention," in line 29, and substitute the word "indefinitely."

Yeas and nays called, which were—

Yeas—Messrs. Leavitt, Merriman, and Phelps.—3.

Nays—Messrs. Bagg, McCormick, Spratt, and Mr. President —4.

Lost.

Mr. Leavitt moved to amend by inserting 1867 instead of 1866.

Yeas and nays called.

Yeas—Messrs. Leavitt, Merriman, and Phelps—3.
Nays—Messrs. Bagg, McCormick, Spratt, and Mr. President—4.

Mr. Leavitt moved an amendment, that September be inserted instead of July. Lost.

Yeas and nays called, which were—

Yeas—Messrs. Leavitt, Merriman, and Phelps—3.
Nays—Messrs. Bagg, McCormick, Spratt, and Mr. President—4.

Mr. Leavitt moved it be laid on the table.

Yeas and nays called, were—

Yeas—Messrs. Leavitt, Merriman, Phelps, and Mr. President—4.
Nays—Messrs. Bagg, McCormick, and Spratt—3.

Mr. McCormick moved it be taken from the table.

Yeas and nays called.

Yeas—None.
Nays—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Lost by the unanimous vote of the Council.

Mr. Bagg moved that a Joint Committee of three from the Council, in conjunction with five from the House, be appointed to adrft an apportionment bill for this Territory. Carried.

And the chair appointed Messrs. Bagg, McCormick, and Leavitt.

Mr. Spratt offered the following resolution:

Resolved, That three from the Council, to act in conjunction with five from the House, be appointed, and that they be instructed to prepare and submit to the two Houses a joint resolution memorializing Congress for an act enabling Montana Territory, at some future time, to form a State Government, and admitting them into the Union thereunder.

Mr. Bagg moved it be laid on the table.

Yeas and nays called, which were—

Yeas—Messrs. Bagg, Leavitt, Merriman, Phelps, and Mr. President—5.

Nays—Messrs. McCormick and Spratt—2.

Mr. Spratt offered the following resolution:

Resolved, That a Committee be instructed to prepare a joint resolution asking Congress to add to our southern boundary an additional scope of country, and fixing our southern line upon natural boundaries.

Yeas and nays called, which were—

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—None.

Carried.

On motion of Mr. Bagg, Council adjourned until 2 o'clock, P. M.

AFTERNOON SESSION.

Council met at 2 o'clock, pursuant to adjournment. Mr. President in the chair.

Roll called—absent, Mr. Merriman.

Quorum present.

Mr. Spratt, chairman of Committee, to whom was referred C. B. No. 14, reported that they have had the same under consideration and recommend that it do not pass.

Report received, and bill placed on file.

Mr. Bagg moved that the bill be indefinitely postponed.

Yeas and nays called, which were—

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—None.

Carried.

Mr. Bagg asked leave to introduce C. B. No. 24, to incorporate the Great Beaver Head Wagon Road Company.

Referred to Committee on Incorporations, after second reading.

C. B. No. 2 on its third reading was placed upon its final passage.

Yeas and nays called, which were—

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—None.

Bill passed.

Mr. Bagg moved that C. B. No. 9 be recommitted to Committee. Carried.

C. B. No. 3 on its third reading was placed on its final passage.

Yeas and nays called, which were—

Yeas—Messrs. Bagg, Leavitt, McCormick, Phelps, Spratt, and Mr. President—6.

Nays—None.

Bill passed.

C. B. No. 5 on its third reading was placed on its final passage.

Yeas and nays called, which were—

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—None.

Bill passed.

Mr. McCormick moved that Joint Resolution No. 1 be taken from the table.

Yeas and nays called, which were—

Yeas—Messrs. Bagg and McCormick—2.

Nays—Messrs. Leavitt, Merriman, Phelps, Spratt, and Mr. President—5.

Lost.

C. B. No. 4 read for information, and ordered to be engrossed.

Mr. Bagg moved that C. B. No. 6 be recommitted.

Carried.

C. B. No. 16 on its third reading was placed on its final passage.

Yeas and nays called for, which were—

Yeas—Messrs. Bagg, Leavitt, Merriman, Phelps, Spratt, and Mr. President—6.

Nay—Mr. McCormick.

Bill passed.

C. B. No. 18 read for information.

Mr. Bagg moved it be laid on the table.

Yeas and nays called, which were:

Yeas—Messrs. Leavitt and Mr. President—2.

Nays—Messrs. Bagg, McCormick, Merriman, Phelps, and Spratt—5.

Lost.

Mr. McCormick moved that the bill be recommitted back to the Committee on Incorporations.

Carried.

Mr. Merriman moved that C. B. No. 9 be taken from the table and referred back to Committee on Incorporations.

Carried.

Mr. Spratt, chairman of Committee, to whom was referred C. B. No. 22, begged leave to refer it back for the consideration of the Council.

Mr. Leavitt moved the bill be laid upon the table.

Carried.

Communication from the Governor received, and read as follows:

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
March 12th, 1866.

To the Honorable Anson S. Potter, President of the Council:

SIR—I have made arangements with the postmaster of this city, by which the postage on all communications of the presiding officer, the chief clerk, and the members of each House of the Legislative Assembly, marked "Official Business," with their signature and official title, will be paid and forwarded by him during the present session.

I have the honor to be
Your ob't servant,
THOMAS FRANCIS MEAGHER,
Secretary Territory of Montana.

Report from the Territorial Auditor received and read as follows:

AUDITOR'S OFFICE,
VIRGINIA CITY, March 12th, 1866.

To the Honorable Members of the Council:

GENTLEMEN—Your resolution of the 10th inst. is received. I submit the following statements in accordance with the request therein contained:

D. H. Hopkins was employed as chief of the Code Commission, on the 25th day of March, A. D. 1865, and continued in their service until the 10th day of November, 1865, being seven and one-half months, ...	$3,750 00
George W. Irwin was employed as clerk, at a salary of 500 dollars per month, for five and one-half months, and received	2,113 00

John B. Miller was in their employ as clerk, one-half month, at $400 per month,	$200 00
James D. Douglas was in their employ one month, at $300,	300 00
The commission also incurred an expense for office rent, of	725 00
And for stationery, fuel, furniture, etc.,	466 38

It is questionable whether there exists any law authorizing the issue of scrip for the last two items, except the necessity for it, and hoping that any action in the premises will meet the approval of your honorable body,

I remain, most respectfully,

Your obedient servant,

JOHN S. LOTT,

Territorial Auditor.

I also submit for your examination, an imperfect journal kept by the commission, which will throw some light on their proceedings.

An application was made to me and urged very strongly by some of the members of the code commission; Mr. Miller said he could not attend to it unless he could draw sufficient pay to meet his necessary expenses, and upon their pledge of honor, I issued five hundred dollars for the use of Mr. Miller; but on a careful consideration of the matter, I regretted the act as an unwarrantable one, and by consent, Mr. Sanders recovered the issue, and Mr. Sanders met the necessities of Mr. Miller himself. The members of the commission have never received any compensation.

I will immediately prepare a bill of items, and an explanation of the manner in which the business of my office has been conducted, which will be an assistance to your Finance Committee or whoever may be appointed to settle accounts between the Territory and myself.

Report and journal referred to committee appointed by the chair.

Chair appointed as committee—Messrs. McCormick, Bagg, and Phelps.

Abstract of votes from the different counties in the Territory, read, and referred to Committee on Apportionment.

Council arose and went into Committee of the Whole, on motion of Mr. Bagg.

Mr. Leavitt, chairman of the Committee, informed the clerk he had no report to make.

The President being absent, the Clerk adjourned the Council until 10 o'clock, A. M., to-morrow.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

NINTH DAY.

MARCH 13, 1866.

Council called to order at 10 o'clock, pursuant to adjournment. Mr. President in the chair.

Roll called—Mr. Leavitt absent.

Journal of previous day read and approved.

C. B. No. 12 referred back by Mr. Spratt, chairman of Committee on Incorporations, with the following report:

That they have had the same under consideration, and beg leave to report the same back for the consideration of the Council.

Report received, and bill placed on file.

C. B. No. 20 was referred back by Mr. Spratt, chairman of Committee on Judiciary, to whom the same was referred. Report that they have had the same under consideration, and beg leave to report that after examining the testimony in relation thereto, do report the same back, and recommend its passage.

Report received, and bill placed on file.

C. B. No. 21 was reported back to the Council by the chairman of Committee on Judiciary, to whom it was referred; they made the following report:

That they recommend its passage.

Report received, and bill placed on file.

Joint Committee on Apportionment ask leave for further time to report. Granted.

Mr. McCormick asked leave to introduce a bill without previous notice. Objected to.

Mr. Spratt gave notice that he would, on to-morrow or some subsequent day, introduce a bill entitled "An Act regulating executors."

Mr. Phelps, according to previous notice, asked leave to introduce C. B. No. 25, "An Act concerning lost goods and estrays."

Read first and second time, and referred to Committee on Judiciary.

Mr. Phelps, according to previous notice, asked leave to introduce C. B. No. 26, "An Act to amend section 185 of the criminal code of the Territory of Montana."

Read first and second time by its title, and referred to Committee on Judiciary.

Mr. Phelps asked leave, according to previous notice, to introduce C. B. No. 27, "An Act to incorporate Horse Prairie and Big Hole River Wagon Road and Bridge Company."

Read first time.

Mr. Bagg moved the bill be laid on the table. Yeas and nays called, which were—

Yeas—Messrs. Bagg, Spratt, and Mr. President—3.
Nays—Messrs. Leavitt, McCormick, Merriman, and Phelps—4.

Read second time by its title.

Mr. Merriman moved it be referred to Committee on Incorporations.

Mr. Bagg moved an amendment, that it be laid on the table. Yeas and nays called, which were for the amendment—

Yeas—Messrs. Bagg, Leavitt, Spratt, Merriman, and Mr. President—5.
Nays—Messrs. McCormick, and Phelps—2.

Carried.

Mr. Merriman asked leave to introduce C. B. No. 28, "An Act to create a fund for the benefit of schools."

Read first and second time by its title, and referred to Committee on Education.

Mr. Spratt moved that fifty copies each of the report of the Committee on Agriculture, and of the Committee on Mines and Minerals, be printed. Carried.

C. B. No. 9 was reported back by the chairman of Committee on Incorporations, with a substitute, and they recommended its passage.

Mr. McCormick moved the report be received and the amendment adopted. Carried.

Further consideration of the bill was postponed until afternoon session.

Mr. McCormick moved that the amendment to C. B. No. 18, as reported by the Committee on Incorporations, be adopted. Carried.

At the request of the President, Mr. Merriman was called to the chair.

Mr. Potter moved the bill be laid on the table. Carried.

On motion, the Council adjourned until 2 o'clock, P. M.

AFTERNOON SESSION.

Council convened pursuant to adjournment. Mr. President in the chair.

Roll called—Mr. Merriman absent.

Mr. Leavitt, by the unanimous consent of the Council, introduced "An Act to incorporate the Madison River Bridge Company."

Read first and second time, and referred to Committee on Incorporations.

Mr. Merriman appeared in his chair.

Mr. McCormick gave notice that he would, on to-morrow, introduce "A Bill to incorporate the Madison Irrigation Company."

A communication from the House was received and read:

HOUSE OF REPRESENTATIVES,
Saturday, March 10, 1866.

MR. PRESIDENT—I am instructed by the House to inform your honorable body, that the following notices of the introduction of bills and the following bills have been introduced:

Mr. Mimms gave notice that he would, on to-morrow or some subsequent day, introduce "An Act amendatory of an act declaratory of the rights of occupancy of the public domain except against the United States."

Mr. Maxwell, pursuant to notice, introduced H. B. No. 7, entitled "An Act authorizing Paul B. Anthony, J. H. Shober and E. S. Rowland to establish a toll road from Helena to Ophir City."

Read first and second time, and referred to Select Committee.

H. B. No. 2, entitled "An Act creating the militia of the Territory of Montana," was placed on its final passage, and lost by 11 to none.

(Signed) JOHN F. RUCKER,
Chief Clerk, House.

Mr. McCormick gave notice that he would, on to-morrow, introduce "A Bill to incorporate the Madison Irrigation Company."

Mr. McCormick moved that C. B. No. 18 be taken from the table.

Yeas and nays called, which were—

Yeas—Messrs. Bagg, Leavitt, McCormick, Phelps, and Spratt—5.

Nays—Messrs. Merriman, and Mr. President—2.

Mr. Potter offered the following amendment:

Amend section 2 by striking out all of section 2 after the word "rates," and insert the following:

"For each wagon drawn by one span of horses, mules or cattle, $3.00.

"For loose horses, mules or cattle, each 50 cents.

"Horses, mules, and riders, $1.00.

"Pack animals, each 50 cents.

"Sheep and swine, each 10 cents."

Add section after 4 as follows:

"SECTION 5. If the said company, their heirs or assigns, shall take or receive any toll at any point upon said road while the same or any part thereof shall be in bad condition for travel with wagon or other vehicle, they shall forfeit all rights and immunities granted by this charter, and the same shall be declared null and void."

Yeas and nays were called on the adoption of the amendment, which were—

Yeas—Messrs. Merriman, Phelps, and Mr. President—3.

Nays—Messrs. Bagg, Leavitt, McCormick, and Spratt—4.

Lost.

Mr. Potter moved the bill be laid on the table. Carried.

Yeas and nays called, which were—

Yeas—Messrs. Bagg, Leavitt, McCormick, Spratt, Phelps, and Potter—6.

Nay—Mr. Merriman.

Mr. Bagg moved it be taken from the table.

Yeas and nays called, which were—

Yeas—Messrs. Bagg, Leavitt, McCormick, Phelps, and Spratt —5.

Nays—Messrs. Merriman, and Mr. President—2.

Mr. Bagg moved the bill be referred to Committee on Incorporations. Carried.

Mr. Potter moved that it be made the special order of to-morrow at 2 o'clock. Carried.

Mr. Leavitt moved an amendment that C. B. No. 18 be made the special order for 11 o'clock. Carried.

Mr. Bagg offered the following Joint Resolution No. 2:

Resolved, By the Council, the House concurring, that the Auditor of the Territory of Montana and the Treasurer thereof be instructed to audit and pay to His Excellency the Acting Governor, Thomas Francis Meagher, the amount that is due the Executive Office from the time His Excellency entered upon his duties as Governor of said Territory, until a bill shall pass the Legislative Assembly repealing the act entitled "An Act giving additional pay to the officers of the Territory."

Yeas and nays called on its adoption, which were—

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—none.

Mr. Spratt moved a reconsideration of the resolution.

Yeas and nays called, which were—

Yeas—Messrs. Merriman, Phelps, Spratt, and Mr. President—4.

Nays—Messrs. Bagg, Leavitt, and McCormick—3.

Mr. Spratt moved the resolution be laid on the table for further consideration. Carried.

Mr. President returned to the chair.

Mr. McCormick offered the following resolution:

Resolved, By the Council, that the Auditor of the Territory be requested to furnish the Council with the amount of warrants drawn upon the Territorial Treasurer, in payment of Sidney Edgerton, Governor of the Territory, under the additional compensation act passed by the last Legislature, and to what dates said warrants have been drawn, and what sum, if any, is now due the Executive Office of this Territory."

Resolution received, and adopted.

Council adjourned until to-morrow at 10 o'clock, A. M.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

TENTH DAY.

MARCH 14, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

All members in their seats.

Journal of previous day read and approved.

Mr. Spratt, chairman of Committee on Incorporations, to whom was referred C. B. No. 18, begged leave to report that they have had the same under consideration, and recommend that it pass.

Report received, and bill placed on file.

Mr. Spratt, chairman of Committee on Judiciary, to whom was referred C. B. No. 17, begged leave to report it back to the Council, and report that they have had the same under consideration, and recommend it pass.

Report received, and bill placed on file.

Mr. Spratt, chairman of Committee on Incorporations, to whom was referred C. B. No. 24, begged leave to report it back to the Council, and recommend it pass, with the following amendments:

That the blank at the end of the eighth line in section 8, be filled with $2.00; section 9, with 50 cents; section 10, with $1.00; section 11, with 75 cents; section 12, with 20 cents; section 13, with 25 cents; section 14, with 10 cents.

Report received, and bill placed on file.

The chairman of Committee on Incorporations, to whom was

referred C. B. No. 29, beg leave to report the same back to the Council, and recommend that it do not pass.

Report received, and bill placed on file.

The chairman of Committee on Judiciary, to whom was referred No. 21, beg leave to report the same back to the Council and recommend it pass.

Report received, and bill placed on file.

The chairman of Committee on Judiciary, to whom was referred C. B. No. 25, beg leave to report the same back to the Council, and recommend it pass.

Report received, and bill placed on file.

The chairman of Committee on Judiciary, to whom was referred C. B. No. 26, beg leave to report the same back to the Council for their consideration.

Report received, and bill placed on file.

The Committee on Federal Relations made the following report:

Your Committee on Federal Relations, to whom was referred that portion of the Governor's message, which relates to the division of the Territory, would report the following Joint Memorial:

To the Congress of the United States:

The Council of the Legislative Assembly of Montana, the House concurring.

Your memorialists would represent that they have learned a movement has been put in motion before the Senate and House of Representatives of the Congress of the United States to divide the Territory of Montana, cutting off a portion known as the Bitter Root and Blackfoot country. Your memorialists, the Council and House of the Legislative Assembly of Montana, with a full knowledge of the natural and proper boundary lines now established for our Territory, and urged by the earnest solicitation of every person residing in said Bitter Root and Blackfoot

country to oppose said movement, would most respectfully and earnestly protest against such division of this Territory; the present lines upon the north and west boundary being upon a natural barrier running on the summit of the Bitter Root mountains to the one hand, and sixteenth parallel of longitude, thence north to the British line. Your memorialists request and instruct our delegate to Congress, Col. Samuel McLean, to present the subject to the House of Representatives of the Congress of the United States, and to urge with force and energy, this our joint protest against said division.

CHARLES S. BAGG, *Chairman.*

Report received, and placed on file.

Mr. Bagg, chairman of Committee on Federal Relations, also made the following report:

Joint Memorial to the Congress of the United States:

The Council of the Legislative Assembly of the Territory of Montana, the House concurring.

Your memorialists would respectfully represent they have learned from reliable information that an appropriation was made by Congress for a territorial library for Montana, and that said library has been purchased and put in charge of a government official, appointed for this Territory. That, although said official has arrived in this Territory and departed from it again, the said library has not come to hand.

Therefore, your memorialists pray the Congress to appropriate a sufficient sum for a territorial library for Montana, to be purchased and placed in charge of some discreet and proper person, to be sent in his charge to the Librarian of the Territory, where it is at this time much needed. Your memorialists instruct the delegate from this Territory to present the subject to Congress for the securing of said object.

Your memorialists ever pray, etc.

Report received and placed on file. Special order.

C. R. No. 14, Mr. McCormick moved to go into Committee of the Whole. Carried.

Mr. Leavitt moved that the Committee of the Whole rise. Carried.

Mr. McCormick, chairman of Committee of the Whole, made the following report:

MR. PRESIDENT—The Committee of the Whole, to whom was referred C. B. No. 18, "An Act to authorize John S. Mead, John J. Murphy, Baptiste Itue and James H. Brown to construct a toll road," beg leave to make the following report:

Strike out all of said bill except the enacting clause, and insert the substitute.

Which report was received, and bill filed for its third reading.

Mr. Bagg moved the suspension of the rules, and that C. B No. 18 pass to its third reading. Carried.

The bill was then read third time, and put upon its final passage.

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, and Spratt—6.

Nay—Mr. President.

Bill passed.

Communication from the Governor received and read as follows:

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
VIRGINIA CITY, March 14, 1866.

To the President of the Council:

SIR—I have the honor to transmit to your honorable body a communication received by me this morning from Major General Sherman, commanding the General Military Division of the Mississippi, in which division Montana is included. From this communication you will perceive, Mr. President, that for some months at least Montana will have to depend upon herself for protection against the enemies of her peace and progress. I beg, therefore, respectfully to suggest that an appropriation, say $25,000, be made for military purposes, to meet any serious emergency which may arise to demand the exercise of armed force by the Executive of the Territory.

This appropriation should be left in the treasury subject to the order of the Governor, and the power to draw upon it should be guarded in favor of the public interests by strict and perfectly well defined conditions, which would prevent it from being used otherwise than for the purpose designated, in such emergencies as are indicated, and then only with scrupulous economy.

I have the honor to be,

Very truly, your obedient servant,

THOMAS FRANCIS MEAGHER.

SAINT LOUIS, February 17th, 1866.

Gen. Thomas F. Meagher, Secretary of Montana, Virginia City:

SIR—I have received your several letters, as also one from Governor Edgerton, on the subject of troops for Montana, and the routes leading thereto. Until Congress fixes the military establishment, it is idle for us to calculate what proportion of troops can be assigned to any part. Were I to grant one-tenth part of the calls on me from Montana to Texas, I would have to call for one hundred thousand men; whereas I doubt I should expect to have ten thousand men in all. You ask for a regiment of cavalry. I now have one regiment of regular cavalry (the 2nd) for Montana, Dacotah, Nebraska, Colorado, Kansas and New Mexico. So you see it is idle to expect all my cavalry in one remote Territory, leaving all others without any, and leaving the roads this side of you unguarded. Even after Congress fixes the military establishment, you know it will take time to enlist and march cavalry, and a still more important question is now under debate, whether to the hostile Indians we are to add all the white people of the South as permanent enemies, to be watched and kept in subjection by military force. As soon as those are determined, we can arrive at the approximate estimate of what troops can be spared for Montana.

As soon as spring comes we must discharge every volunteer on the plains and in the remote territories, and General Pope is pressing with all possible energy to replace the essential garrisons with regular infantry. Your people may safely count on the Missouri river and the Platte road to Laramie, Fort Reno to

Montana, and that is about all we can attempt now. We cannot for months, if this year, promise to place any cavalry in Montana.

Yours truly,

W. T. SHERMAN, *Major General.*

Mr. Spratt moved that it be referred to the Committee on Military Affairs. Carried.

Communication from the House received and read, as follows:

TUESDAY, March 13, 1866.

Report of bills introduced and notices given in the House of Representatives, March 12th.

Notices were given of the following acts:

"An Act creating the office of Territorial Assessor, and defining his power and duties."

"A bill to incorporate the Jefferson River Water Ditch Company."

"An Act to incorporate for the protection of the agricultural interests of the Territory."

Bill introduced by Mr. Hanna:

H. B. No. 8, "An Act divorcing Mary E. Godfrey and John F. Godfrey."

H. B. No. 9, "An Act authorizing Joseph V. Stafford and John R. Stafford to establish a ferry on the Missouri river."

Also, notice given of "A bill to incorporate Virginia and Sterling City Wagon Road Company."

"A bill amendatory of an act relating to the granting of writs of injunction."

(Signed) JOHN F. RUCKER,
Chief Clerk of House.

HOUSE OF REPRESENTATIVES,
TUESDAY, March 13, 1866.

MR. PRESIDENT—I am instructed to inform your honorable body that notice was given of the introduction of the following bills:

"An Act to amend an act entitled an act to incorporate the City of Virginia, passed Dec. 30, 1865."

"An Act to incorporate the Ten Mile and Last Chance Consolidated Water Ditch Company."

"An Act authorizing Oliver Lootsenhizer to establish a ferry on the Missouri river."

"An Act to incorporate the De Kall Gold and Silver Mining Company."

"An Act authorizing J. M. Wood and John Storm to establish a ferry on the Missouri river, at or near the mouth of Crow Creek."

"An Act divorcing E. P. Waring from R. P. Waring."

"A bill to incorporate Blackfoot Water Company."

"A bill to incorporate the Ohio Ditch Company."

(Signed) J. F. RUCKER,
Chief Clerk of House.

I also report H. B. No. 12, "An Act to amend an act entitled an act establishing a common school system for the Territory of Montana."

H. B. No. 10, "An Act regulating the terms of the probate court, and fixing the places of holding the same in Deer Lodge county."

C. B. No. 3, "An Act defining the duties of county treasurer, and the payment of county warrants." Bill passed.

The House concurred in request of Council in regard to Joint Committee on Apportionment, and appointed on said Committee, Messrs. McCullough, Maxwell, Parrott, Rice, and Smith.

(Signed) JOHN F. RUCKER,
Chief Clerk of House.

Mr. McCormick asked leave to introduce C. B. No. 30, "An Act to incorporate the Madison Irrigation Company."

Rules suspended, read first and second time, and referred to Committee on Incorporations.

On leave, Mr. McCormick introduced C. B. No. 31, without previous notice, "An Act to amend an act in regard to executors and administrators."

Read first and second time, and referred to Committee on Judiciary.

Mr. Spratt offered the following resolution:

Resolved, That after this week no new bill be considered or entertained by this House, having for its object the incorporation of any private company for any purpose whatever, and that the House be requested to concur in this resolution.

Mr. Bagg moved to lay the resolution on the table.

Yeas and nays called, were—

Yeas—Messrs. Bagg, Leavitt, McCormick, and Merriman—4.
Nays—Messrs. Phelps, Spratt, and Mr. President—3.

Moved by Mr. Bagg: "That two be added to the Committee on Incorporations." Carried.

Messrs. Bagg and Merriman were added to the Committee.

House Bill No. 19, "An Act to incorporate the Grand Lodge A. F. and A. M. of Montana," read first and second time.

On motion, rules suspended, and passed to its third reading by its title, and final passage. Carried.

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

And the bill passed.

Mr. Spratt moved that C. B. No. 7 be made the special order for 2 o'clock, P. M. Carried.

On motion of Mr. Merriman, Council adjourned till 2 o'clock, P. M.

AFTERNOON SESSION.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Mr. Merriman absent.

Moved by Mr. McCormick, that Council go into Committee of the Whole. Carried.

Mr. McCormick in the chair.

Mr. Bagg moved that the Committee of the Whole do now rise. Carried.

The President in the chair.

Mr. McCormick, chairman of the Committee, made the following report:

The Committee of the Whole, to whom was referred C. B. No. 7, beg leave to make the following report, that they have had the same under consideration and have adopted the following amendments:

Add to section 7 the following: "Nor shall the said road be located within the limits of the right of the said Missouri River and Rocky Mountain Wagon Road and Telegraph Company, according to the survey made and authorized by them, and authorized by their charter."

Also, add to section 5, the following:

"*Provided*, That said toll gate shall not be located within five miles of either of the towns of Virginia City, Sterling or Helena cities."

Also, strike out the word "last" in line 25, section 7, and insert the word "first."

All of which is respectfully submitted to the House.

W. J. McCORMICK, *Chairman.*

Mr. Bagg moved the report be received and adopted.

On motion of Mr. McCormick, C. B. No. 7 was called for third reading.

Read third time and put on its final passage.

Yeas and nays called, were—

Yeas—Messrs. Bagg, Leavitt, McCormick, Spratt, Phelps, and Mr. President—6.

Nay—Mr. Merriman.

Bill passed.

Communication from the Governor was received and read, and referred to the Committee on Apportionment.

Mr. Leavitt, chairman of Committee on Indian Affairs, made the following report:

MR. PRESIDENT—Your Committee to whom was referred that portion of the Governor's Message relating to Indian Affairs, report as follows:

The eastern and northern portion of our Territory has been and now is afflicted by the hostile depredations of predatory bands of Indians, sanctioned by tribal authority or conducted by individuals claiming to be free from such tribal authority. The unfriendly spirit manifested by them, and their hostile interference with the safe transit of emigrants and traders and the movement of prospectors, has been a subject of just complaint and indignant protest during the last two or three years. The importance of our Territory in its present and prospective wealth and population, demand a corresponding care and energy for the protection of its interests.

The Territories of the United States always appeal with confidence to the General Government for immediate and practical arrangements with Indian tribes within and contiguous to their limits, for the preservation of peace, and, where necessary, to reprove with an emphatic exercise of power all hostile demonstrations toward white settlers and emigrants; but we are so removed by distance, and the barrier of a wild and unreclaimed region, from the seat of the general government and military head quarters, as to render Federal interference or application to frontier military posts in our behalf of no immediate avail. The sudden irruption of emigration into new territories is almost certain to provoke a a feeling of unfriendliness and even a state of war with surrounding tribes. Often, treaties solemnized by customary forms, are impotent to prevent occasional outbreaks that terminate in a system of robbery, lawlessness and assassination. Under such circumstances it is not for us to inquire whether or no such acts are provoked by the lawlessness of white persons, but to provide for urgent necessity, and assist with bold and efficient measures, the interests of our Territory and the life and property of its citizens.

In the absence of any aid that can be had effectually, in case of Indian troubles or in anticipation of Indian war, your Committee would suggest that a military force be raised under sanction of the present Legislature, and furnished and equipped so as to insure its capacity for service and the utmost mobility in an Indian campaign.

Perhaps a further suggestion is unnecessary, that the number assigned to said force, and the character of its appointments, are essential to its unquestioned reputation as a military necessity. Also, the correct and discreet administration of the Commissary department, so as to assure the public mind, and the proper official guardianship of any apprehension of mal-service in such particulars, would be absolutely demanded to relieve executive and legislative acts and intentions from the odium usually attached to such procedures. It is thought that a comparatively small force will answer all the military purposes required. Such a matter of general interest can be rendered unpopular and burdensome only by the absence of proper and beneficent measures.

The communications held between Acting Governor Meagher and the military, transmitted to the Council, give no encouragement that immediate and effective aid can be rendered in an acceptable and substantial manner.

By the adoption of some prudent home plan for our military protection, such as will elicit the commendation of the military department and the General Government, we are inclined to think that Government will reimburse the entire cost of a proper Territorial military establishment.

In conclusion, your Committee think that the force called out and maintained, will have in number a minimum of fifty men and a maximum of one hundred and fifteen men to satisfy our immediate wants.

E. D. LEAVITT, *Chairman.*

On motion of Mr. Bagg, the report was received and adopted, and one hundred copies ordered to be printed.

By consent of the Council, Mr. Bagg introduced C. B. No. 32, "An Act to dissolve the bonds of matrimony between Thomas Thoroughman and Emily Thoroughman."

Rule suspended, and the bill was read first and second time.

On motion of Mr. Leavitt, rule was suspended and the bill was put on its final passage.

Yeas—Messrs. Bagg, Leavitt, McCormick, Phelps, and Mr. President—5.

Mr. Spratt excused from voting, and the bill passed.

The report of the Territorial Auditor as follows:

AUDITOR'S OFFICE,
VIRGINIA CITY, M. T., March 14, 1866.

To the Honorable Members of the Council of the Legislative Assembly of the Territory of Montana:

GENTLEMEN—Your resolution of the 18th inst. is received, and the following statement is respectfully submitted in reply:

The compensation to Sidney Edgerton as executive officer of the Territory of Montana, was from June 21st, A. D. 1864, to December 6th, 1865, amounting to $4,271.00, all of which was due and payable, and was issued to him previous to his departure from the Territory in accordance with the provisions of an act authorizing said compensation. The construction put upon said act by me, was such that I did not feel authorized to issue or pay to any person as Governor, except to him who held a commission as such.

The amount due the Executive office is for the quarter ending March 6th, 1866, ...	$625 00
Quarter ending June 6th, 1866, ...	625 00
	$1,250 00

Most respectfully,
Your obedient servant,
JOHN S. LOTT,
Auditor of Territory of Montana.

On motion of Mr. Bagg, the resolution authorizing the Territorial Auditor and Treasurer to audit and pay the balance due the Executive office was taken from the table.

Mr. Bagg moved that the resolution pass. Carried.

Ayes and nays called, which were—

Yeas—Messrs. Bagg, Leavitt, McCormick, Phelps, Spratt, and Mr. President—6.

Nay—Mr. Merriman.

Mr. Phelps, pursuant to previous notice, introduced C. B. No. 33, "An Act to incorporate the Gold Hill Mining Company."

Read first and second time, and referred to Committee on Incorporations.

On motion of Mr. McCormick, C. B. No. 4 passed to its third reading.

Read third time and put upon its final passage.

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—None.

Bill passed.

On motion of Mr. McCormick, C. B. No. 17 was made special order for 10 o'clock, to-morrow.

On motion of Mr. Leavitt, C. B. No. 9 was made special order for 2 o'clock, to-morrow.

On motion of Mr. McCormick, Council adjourned until 10 o'clock, A. M., to-morrow.

A. S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

ELEVENTH DAY.

MARCH 15, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

All the members in their chairs.

Journal of previous day read and approved.

Mr. Bagg moved that C. B. No. 17 be laid on the table. Carried.

Communication from the House received and read as follows:

HOUSE OF REPRESENTATIVES,
Thursday, March 15, 1866.

MR. PRESIDENT—I am instructed to inform your honorable body that the following notice of the introduction of a bill has been given:

"A Bill to amend an act concerning the license law."

The following bills were introduced:

H. B. No. 13, "An Act to amend an act entitled an act to incorporate the city of Virginia."

H. B. No. 14, "An Act divorcing E. B. Waring and R. P. Waring."

H. B. No. 15, "An Act to incorporate the Ten Mile and Last Chance Consolidated Water Ditch Company."

H. B. No. 16, "An Act to amend an act authorizing Oliver Toolsinhizer to establish a ferry on the Missouri river."

H. B. No. 17, "An Act to incorporate the De Kall Gold and Silver Mining Company."

H. B. No. 18, "An Act to incorporate Highland District Gulch Mining Company."

H. B. No. 20, "An Act to incorporate the Blackfoot Water Company."

H. B. No. 21, "An Act to incorporate the Ohio Ditch Company."

The following bills passed:

"An Act concerning descents and distributions."

H. B. No. 8, "An Act divorcing John F. Godfrey and Mary E. Godfrey."

H. B. No. 5, "An Act authorizing Solomon Miller and his associates to build a bridge or keep a ferry on the Jefferson river."

Submitted respectfully,

JOHN F. RUCKER, *Chief Clerk.*

Mr. Bagg moved that C. B. No. 17 be taken from the table.

Yeas and nays called, which were—

Yeas—Messrs. McCormick, Spratt, and Mr. President—3.
Nays—Messrs. Bagg, Leavitt, Merriman, and Phelps—4.

Lost.

The Committee on Incorporations reported as follows:

Your Committee on Incorporations beg leave to report the bill back to the Council, with the following amendments:

Strike out words "and otherwise acquire," in section 5, 1st and 2nd lines.

Strike out, in section 6, the word "exclusive," in the 1st and 2nd lines. Also, in the same section, add the words "according to an act entitled an act concerning the location of tunnels, approved January 31st, 1865."

The chairman of Committee on Judiciary reported C. B. No. 31 back to the Council, with the following report:

Your Committee have had C. B. No. 31 under consideration, and beg leave to report that, in the opinion of the Committee, it is impolitic to alter, amend or modify any law of a general character passed by the last Legislature until said law has been printed and distributed about the Territory, unless it is in such instances as public and private interest may demand. Your Committee therefore report this bill back to the Council, and recommend that it do not pass.

Report received, and bill placed on file.

Mr. Spratt, chairman of Committee, reported C. B. No. 13 back to the Council, with a substitute.

Report received, and filed.

Mr. Spratt moved that the Council go into Committee of the Whole, to consider C. B. No. 13. Carried.

Mr. Leavitt moved the Committee rise. Carried.

Mr. Merriman, as chairman of the Committee of the Whole, reported C. B. No. 13, "An Act defining the jurisdiction and power of the probate courts of Montana Territory," beg leave to report that they have had the same under consideration, and report progress for further action.

N. MERRIMAN, *Chairman.*

Report received, and adopted.

The Committee on Incorporations made the following report:

Your Committee on Incorporations, to whom was referred C. B. No. 30, have had the same under consideration, and report the same back, and recommend it do not pass.

E. D. LEAVITT, *Chairman.*

Report received, and bill placed on file.

On motion of Mr. Spratt, C. B. No. 30 was indefinitely postponed.

On motion of Mr. Leavitt, rules suspended, and C. B. No. 22 was taken from the table.

On motion of Mr. Leavitt, C. B. No. 22 was indefinitely postponed.

Communication received from the Governor read, and referred to Committee on Apportionment.

On motion of Mr. Merriman, the Council adjourned to 2 o'clock, P. M.

AFTERNOON SESSION.

Council met at 2 o'clock, pursuant to adjournment. Mr. President in the chair.

Roll called—all members in their seats.

On motion of Mr. McCormick, Council went into Committee of the Whole, to consider C. B. No. 9.

On motion of Mr. Merriman, the Committee of the Whole arose.

Mr. McCormick, chairman of Committee of the Whole, made the following report:

The Committee of the Whole, to whom was referred C. B. No. 9, beg leave to report that they have had the same under consideration, and adopted the following amendment to section 3:

"In case the said Marshall county shall fail to build a bridge within two years from the passage of this act, then the Legislature shall have power to authorize any person, or company of persons, to build a bridge within two years at said point."

Also, in section 7, add the following:

"That if said company shall fail to comply with all the provisions of this act, this charter, with all the privileges therein granted, shall be forfeited forever."

W. J. McCORMICK, *Chairman.*

By consent, Mr. Merriman introduced C. B. No. 34, "An Act dissolving the bands of matrimony between Allen Anson and Annette Anson."

Read first and second time, rules suspended, and bill passed to its third reading.

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, and Mr. President—6.

Nays—none.

Mr. Spratt excused from voting.

Mr. Bagg called up C. B. No. 20. The bill was, upon motion of Mr. Bagg, put upon its third reading, read third time, and put upon its final passage.

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, and Mr. President—6.

Nays—none.

Mr. Spratt excused.

H. B. No. 5 was called up, "An Act to authorize Solomon H. Miller, his heirs and assigns, to establish a ferry over the Jefferson river."

Read first and second time, and referred to Committee on Incorporations.

H. B. No. 8, "An Act divorcing John F. Godfrey and Mary E. Godfrey."

Read first and second time, and, on motion of Mr. Spratt, referred to Committee on Military Affairs.

The chairman of Committee on Military Affairs made the following report:

MR. PRESIDENT—Your Committee on Military Affairs report H. B. No. 8 back to the Council, and recommend the bands be cut in twain by the vote of this house.

C. S. BAGG, *Chairman.*

Rules suspended, and bill put upon its third reading, and upon motion of Mr. Spratt, was laid upon the table.

On motion of Mr. Leavitt, the Council went into Committee of the Whole on C. B. No. 12.

On motion of Mr. Potter, Committee arose.

Mr. Leavitt, as chairman of the Committee of the Whole, made the following report:

The Committee of the Whole, to whom was referred C. B. No. 12, entitled "An Act to establish a toll road from Rhea City to Pacific City, in Deer Lodge county," have had the same under consideration, and beg leave to report it back, with following amendments:

Amend section 1, by striking out all after the word "collect," in line 13, to the word "the," line 22, same section, and insert the following: "such rate of toll as may be fixed and regulated by the county commissioners of the county in which the said road shall be located."

Also, strike out all after "road," in 29th line, and insert the following: "The said company may collect toll for men and horses, pack animals and loose stock, as soon as a good, smooth and clear track shall have been made over the same, at such rate of toll as may be fixed by the county commissioners of the county in which said road shall be located."

Also, insert between sections 1 and 2, as new section:

"If said company, their agents or assigns, shall take or receive toll upon said road when the same, or any part thereof, shall be in bad condition for travel with wagons, after having been notified of such bad condition, this act, and all privileges under the same, shall become and be declared null and void."

E. D. LEAVITT, *Chairman.*

Report received, and bill ordered engrossed.

On motion of Mr. Bagg, H. B. No. 8 was taken from the table.

The bill was then read the third time, and passed by the following vote:

Yeas—Messrs. Bagg, and Merriman—2.
Nay—Mr. McCormick.

Messrs. Spratt, Leavitt, Phelps, and Mr. President, excused from voting.

C. B. No. 8 was called up by Mr. Merriman, and, on motion, was indefinitely postponed.

Yeas—Messrs. Bagg, Leavitt, McCormick, Spratt, and Mr. President—5.
Nays—Messrs. Merriman, and Phelps—2.

C. B. No. 9 was called up by Mr. Merriman, put upon its third reading, and was passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, and Spratt—6.
Nay—Mr. President.

On motion of Mr. Bagg, Council adjourned to 10 o'clock, A. M., to-morrow.

A. S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

TWELFTH DAY.

MARCH 16, 1866.

Council met at 10 o'clock, pursuant to adjournment. Mr. President in the chair.

All the members in their chairs.

Journal of previous day read and approved.

Mr. Bagg presented a petition from the citizens of Gallatin county.

Referred to Committee on Towns and Counties.

Mr. McCormick, chairman of the Committee on Engrossment, made the following report:

MR. PRESIDENT—The Committee on Engrossment have examined Council Bill No. 12, "An Act to establish a toll road from Rhea City to Pacific City," and find the same correctly engrossed.

W. J. MCCORMICK, *Chairman.*

Report received and adopted.

The Committee on Indian Affairs asked further time to make their report. Granted.

Mr. Spratt, chairman of the Judiciary Committee, made the following report on C. B. No. 19, "An Act to establish the fees of officers":

MR. PRESIDENT—Your Committee, to whom was referred C. B. No. 19, have had the same under consideration, and beg leave to report the same back to the Council for its consideration.

J. G. SPRATT, *Chairman.*

Report received, and bill filed for further consideration.

Mr. Spratt, chairman of Committee on Judiciary, made the following report on C. B. No. 34, "A Bill to amend an act concerning county and county officers":

MR. PRESIDENT—Your Committee on Judiciary, to whom was referred C. B. No. 34, beg leave to report the bill back to the Council for its consideration.

J. G. SPRATT, *Chairman.*

Report received, and bill filed for further consideration.

Mr. McCormick, chairman of Committee on Apportionment, made the following report:

MR. PRESIDENT—The chairman of the Joint Committee on Apportionment, begs leave to report that said committee have agreed upon the following ratio or basis of representation:

First. That the Council and House shall be increased to the minimum number—Council, 13; House, 26.

Second. The following representation shall be in the following ratio:

Madison County—three members of the Council, and five members of the House.

Deer Lodge County—three members of the Council, and five members of the House.

Edgerton County—three members of the Council, and five members of the House.

Beaver Head County—two members of the House.

Missoula County—two members of the House.

Beaver Head and Missoula Counties—one member of the Council.

Jefferson County—one member of the House.

Gallatin, Choteau, and Big Horn Counties—six members of the House.

Jefferson, Gallatin, Choteau, and Big Horn Counties—three members of the Council.

All of which is respectfully submitted.

W. J. MCCORMICK,
Chairman of Joint Committee.

Report received.

Mr. Leavitt gave notice that he would, on to-morrow or some future day, introduce a bill entitled "An Act to dissolve the bonds of matrimony between Margaret Maloney and D. Maloney."

Mr. Merriman, pursuant to notice, introduced C. B. No. 35, "An Act to incorporate the Sun River Bridge Company."

On motion of Mr. Leavitt, the rule was suspended, and the bill read first and second time by its title, and referred to Committee on Incorporations.

Mr. Spratt gave notice that he would, on to-morrow or at some future day, introduce a bill entitled "An Act to regulate executions, and to amend the act relating thereto."

Mr. Spratt also gave notice that he would, on to-morrow or some future day, introduce a bill, entitled "An Act to repeal an act entitled an act to incorporate Virginia City," passed at the First Session of the Montana Legislature.

On motion of Mr. McCormick, the rule was suspended, and C. B. No. 17 was taken from the table.

On motion of Mr. McCormick, the Council went into Committee of the Whole on C. B. No. 17. Mr. McCormick as chairman.

On motion of Mr. Bagg, the Committee of the Whole arose.

The following communication was received and read from the Governor:

EXECUTIVE OFFICE,
VIRGINIA CITY, March 16, 1866.

To the President of the Council:

SIR—I have the honor to announce to the Council that I have approved and signed C. B. No. 2, "An Act defining the duties of county treasurer and the payment of county warrants."

I am, very truly,
Your obedient servant,
THOMAS FRANCIS MEAGHER,
Acting Governor.

H. B. No. 4, "An Act for the better observance of the Sabbath Day," was then taken up.

Read first and second time, and

On motion of Mr. Bagg, the bill was laid on the table.

H. B. No. 9, "An Act to authorize James B. Stafford and John R. Stafford to establish a ferry on the Missouri river."

Read first and second time by its title, and referred to the Committee on Incorporations.

Mr. McCormick, chairman of the Committee of the Whole, made the following report:

MR. PRESIDENT—Your Committee of the Whole, to whom was referred C. B. No. 17, have had the same under consideration, and beg leave to report the same back to the Council, and recommend the adoption of the following amendments to Council Bill No. 17:

"Section 1, first line, strike out "county in" and insert "portion of."

"SEC. 3. The Acting Governor of this Territory is hereby authorized and empowered to appoint, by and with the advice of the Council, immediately after the passage of this act, good and competent men to fill all the county offices in the said county of Meagher, and the persons so appointed shall qualify according to law within ten days after notice of their appointment, and shall discharge all the duties appertaining to their respective offices until the next general election, and in the meantime, the county seat for the said county shall have temporary location at Diamond City, and the qualified electors of the said county of Meagher shall, at the next general election, have power to change and locate the permanent seat of said county by a majority of said qualified voters, and at such election the place having the highest number of votes shall be declared the county seat of said county."

"SEC. 4. That immediately after the passage of this act and approval by the Governor, the qualified electors of that portion known as the county of Gallatin are authorized and empowered to hold a special election in their respective voting precincts within the boundaries of the said county, as made by this act, on the second Monday of May, A. D. 1866, to elect a

probate judge, county clerk, sheriff, treasurer, assessor and three commissioners and justices of the peace, and constables, in each township, according to law."

All of which is respectfully submitted.

W. J. McCORMICK,
Chairman of the Committee of the Whole.

Mr. Merriman also offered the following amendment to C. B. No. 17:

"SEC. 5. That each portion of the county so divided, shall bear its just proportion of the public debt due and owing from said county of Gallatin."

Carried.

Mr. Phelps offered an amendment to C. B. No. 17, which was lost by the following vote:

Yeas—Messrs. Leavitt and Phelps—2.
Nays—Messrs. Bagg, McCormick, Merriman, Spratt, and Mr. President—5.

On motion of Mr. McCormick, the Council went into executive session.

On motion of Mr. Merriman, Council adjourned to Monday morning at 10 o'clock, A. M.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

FIFTEENTH DAY.

MARCH 19, 1866.

Council met at 10 o'clock, pursuant to adjournment. Mr. President in the chair.

Roll called—Mr. Spratt absent.

Mr. Bagg, chairman of the Committee on Federal Relations, made the following report:

MR. PRESIDENT—Your Committee, to whom was referred the correspondence between His Excellency Acting Governor Thomas Francis Meagher, and Major-General W. T. Sherman, commanding the grand Military Division of the Mississippi, in which the Territory of Montana is included, would make the following report upon the Governor's communication to this House on the subject, wherein His Excellency suggests "that an appropriation be made for the protection of the lives and property of our citizens against the savage enemies of her peace and progress."

Your Committee are satisfied that the Territory of Montana will have to depend upon herself for protection in men and means for the ensuing year, it being impossible to obtain aid from the General Government of a force to keep the predatory bands of hostile Indians in subjection, that are continually committing depredations upon our frontier settlements; made certain by the information received by His Excellency the Acting Governor, from General Sherman, commandant of the Mississippi Division, wherein he says, "that even after Congress fixes the military establishment, it will take time to enlist and march cavalry; and that a still more important question is now under debate, whether to hostile Indians we are to add all the whole people of the South as permanent enemies, to be watched and kept in subjection to military force."

Your Committee, with the knowledge of such facts herein referred to, are satisfied that our once peaceful and happy country stands in that critical position of political decomposition, once known and experienced by the republics of France, Greece and Rome, and that the wise, good, conservative and fraternal heart of the country lies compressed and bleeding underneath the weight of surrounding evils, powerless to act, powerless to heal, and powerless to save, until that heart shall beat and throb for all, instead of a section, uniting the disengaging parts by the just concession of pride and power towards one another as individuals, as localities, and as States, to be practiced by all under the enlivening conscience of true charity, and good national will. Until this is done, until the people who, by their intelligence, forbearance and unity, shall verily conserve their own interests in the perpetuity of their constitution and their government as transmitted to them by their fathers, there is little hope to be entertained by the people of Montana of receiving any aid in military force from the General Government, which exhibits so many evidences of alienation and disentegration.

Therefore, your Committee recommend that a law be passed by the Legislative Assembly of the Territory of Montana at its present session, authorizing the issue of bonds to the amount of one hundred thousand dollars in the name of the Territory of Montana, drawing interest at the rate of ———, payable in three, five and seven years for military purposes, to meet any serious emergency which may arise within our border from the surrounding savage tribes. Said bonds to be lodged in the hands of a proper person or officer of the Territory, subject to the order of the Secretary of the Territory when the necessity arises, giving the Secretary the power to draw upon said funds according to the emergency of the occasion; to be surrounded by all the safeguards of the enactment granting the same, to be applied by him with strictness, economy and fidelity.

CHARLES S. BAGG, *Chairman.*

Report received, and 100 copies ordered printed.

Mr. McCormick gave notice that he would, on to-morrow or some subsequent day, introduce a bill to authorize Z. F. Moody

and T. W. Davidson to construct a portage around the Cabinet Rapids on Clark's Fork of the Columbia.

Also, a bill to authorize T. W. Davidson and E. B. Warber to construct a ferry across the Flat Head river.

The following communication from the House was received:

HOUSE OF REPRESENTATIVES,
Friday, March 16, 1866.

MR. PRESIDENT—I am instructed by the House to inform your honorable body that the following bills have been introduced:

H. B. No. 22, "An Act creating the office of Assessor, and defining the duties."

H. B. No. 23, "An Act to amend an act entitled an act to regulate proceedings in civil cases and in courts of justice of the Territory of Montana, approved 1866."

H. B. No. 24, "An Act authorizing H. Jameson and others to construct a toll road."

The following bills upon their third reading were passed:

H. B. No. 6, "An Act creating the county of Vivian, and establishing the county seat thereof."

H. B. No. 4, "An Act for the better observance of the Lord's Day."

H. B. No. 9, "An Act authorizing Joseph V. Stafford and John R. Stafford to establish a ferry on the Missouri river."

The following bill upon its third reading was lost:

C. B. No. 16, "An Act to incorporate the Rocky Mountain and New York Exploring, Prospecting and Mining Company."

Notice was given of the introduction of a bill to incorporate the Big Blackfoot and Fort Benton Wagon Road Company."

Submitted respectfully,
JOHN F. RUCKER,
Chief Clerk House of Representatives.

Mr. Leavitt, by consent, without previous notice, introduced C. B. No. 36, "An Act to incorporate the Kercheval Town Association."

Read first and second time, and referred to Committee on Incorporations.

Mr. Leavitt, pursuant to a previous notice, introduced C. B. No. 37, "An Act to dissolve the bonds of matrimony between Margaret Maloney and D. Maloney."

Read first and second time, and on motion of Mr. Bagg, was laid on the table.

On motion of Mr. Bagg, C. B. No. 17, "An Act to divide the present county of Gallatin and create two counties out of the same," was taken from the table.

On motion of Mr. Bagg, the rule was suspended, and the bill was read third time by its title, and put upon its final passage.

Yeas and nays being called, resulted as follows:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, and Mr. President—6.

Nays—None.

Bill passed.

H. B. No. 6, "An Act to incorporate the county of Vivian, defining the boundaries thereof and establishing the county seat thereof."

Read first and second time, and referred to Committee on Towns and Counties.

C. B. No. 37 was, on motion of Mr. Bagg, taken from the table.

Rule suspended and bill passed to a third reading, and bill passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, Merriman, and Phelps—4.

Nays—Messrs. McCormick and Mr. President—2.

Mr. Merriman called to the chair.

On motion of Mr. Potter, the following amendments to C. B. No. 10 were adopted, to wit:

Insert, after the word "the" in 1st section and 1st line, "Territorial district courts and persons acting as clerks of the probate

courts," and insert after the word "of" in same section, and 6th line, "five thousand dollars, and an additional amount if required by the judges of the respective courts."

Upon which the yeas and nays were called, with the following result:

Yeas—Messrs. Bagg, Leavitt, Merriman, Phelps, and Mr. President—5.

Nay—Mr. McCormick.

Amendment carried.

Mr. McCormick offered the following amendments, which were lost:

"That the clerks of the territorial district courts of the several counties of the Territory shall be, and they are hereby required, before entering upon the duties of their office, to file and execute a bond to the people of the Territory in such sums as shall be required by the judge thereof, which bond shall be approved by the judges of the respective districts. That the clerk of the territorial district courts of the several counties shall execute a bond to the people of the Territory in the sum of ten thousand dollars. And if it shall appear at the time that said bonds so executed shall be insufficient, the judge thereof shall require additional bonds to be filed by said clerk."

On motion of Mr. Bagg, the bill was ordered to be engrossed.

On motion of Mr. McCormick, the Council adjourned to 2 o'clock, P. M.

AFTERNOON SESSION.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Mr. Spratt absent.

C. B. No. 12 was taken up, read third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, Merriman, McCormick, and Phelps—5.

Nay—Mr. President.

C. B. No. 19 was, on motion of Mr. Bagg, laid on the table.

On motion of Mr. Bagg, a Committee of two were appointed by the President, to act in conjunction with three from the House, to draft a bill regulating fees of officers.

Messrs. Phelps and Merriman were appointed on said Committee.

C. B. No. 13 was, on motion of Mr. Leavitt, laid on the table.

C. B. No. 21 was then taken up, on motion of Mr. McCormick.

The Council went into Committee of the Whole.

The following communication was received from the House, and read.

HOUSE OF REPRESENTATIVES,
Friday, March 16, 1866.

MR. PRESIDENT—I am instructed to inform your honorable body that the following notice of the introduction of bills has been given:

"An Act to amend an act entitled an act defining the

boundary line of counties in Montana Territory, passed February 2, 1865."

"An Act to prohibit marriage and cohabitation of whites with Indians, Chinese, and persons of African descent."

The following bill was introduced:

H. B. No. 25, "An Act to authorize J. M. Wood and John Stone to establish a ferry on the Missouri river."

"An Act concerning dower" was read the third time and passed.

Respectfully,
JOHN F. RUCKER,
Chief Clerk of House.

Also, the following communication was received and read from the House:

HOUSE OF REPRESENTATIVES,
March 19, 1866.

MR. PRESIDENT—I am instructed to inform your honorable body that H. B. No. 1 has passed with an amendment to the amendment as passed by the Council, which will be found in the bill as engrossed.

JOHN F. RUCKER, *Chief Clerk.*

On motion of Mr. Bagg, the Committee of the Whole arose.

Mr. McCormick, chairman of the Committee of the Whole, asked further time to report. Granted.

On motion of Mr. Bagg, the rule was suspended, and Mr. Merriman introduced C. B. No. 38, "An Act to dissolve the bonds of matrimony between Francis A. Richardson and Faith Richardson."

Read first and second time, rule suspended, and the bill was read the third time and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, and Merriman—3.
Nays—Messrs. McCormick and Phelps—2.

The President was excused by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, and Merriman—4.
Nay—Mr. Phelps.

Mr. Bagg, by consent, introduced C. B. No. 39, "An Act to incorporate the Summit Gulch Mining Company."

Read first and second time, and referred to Committee on Incorporations.

On motion of Mr. McCormick, the Council adjourned to 10 o'clock, to-morrow.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

SIXTEENTH DAY.

MARCH 20, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—all the members in their seats.

Journal of previous day read and approved.

The following communication was received and read:

HOUSE OF REPRESENTATIVES,
Monday, March 19th, 1866.

MR. PRESIDENT—I am instructed to inform the Council that the following notices of the introduction of bills have been given to the House:

"An Act regulating the fees of officers, jurors and witnesses."

"An Act to amend an act entitled an act defining the duties of Territorial Auditor of Montana Territory."

"An Act to incorporate the Montana Flume and Mining Company."

"An Act to establish a ferry on the Missoula river."

"A Bill amendatory of the quartz law bill," introduced.

H. B. No. 27, "An Act to prohibit marriage and cohabitation of whites with Indians, Chinese, and persons of African descent."

H. B. No. 28, "An Act to amend an act entitled an act defining the boundary line of counties in Montana Territory, passed February 2nd, 1865."

Joint Resolution No. 3.

Bills passed:

H. B. No. 3, "An Act to incorporate the Helena City Water Company."

C. B. No. 34, "An Act dissolving the bonds of matrimony between Allen Anson and Annetta Anson."

H. B. No. 14, "An Act divorcing E. P. Waring and R. P. Waring."

Council Joint Resolution No. 2 read third time, and lost.

H. B. No. 20, "An Act to incorporate Blackfoot Water Company," laid on the table indefinitely.

H. B. No. 13, "An Act to amend an act entitled an act to incorporate Virginia City," laid on the table for further consideration.

Respectfully,

JOHN F. RUCKER, *Chief Clerk.*

Also the following:

HOUSE OF REPRESENTATIVES,
March 20th, 1866.

MR. PRESIDENT—I am authorized by the House to return to the Council H. B. No. 1, with the proper indorsements on the same.

Respectfully,

JOHN F. RUCKER, *Chief Clerk of H. R.*

Mr. McCormick, chairman of Committee on Engrossment, made the following report:

MR. PRESIDENT—The Committee on Engrossment beg leave to report that they have examined C. B. No. 10, and find the same correctly engrossed.

W. J. MCCORMICK, *Chairman.*

Report received, and adopted.

Messrs. Bagg and Spratt, from Special Committee, made the following report:

MR. PRESIDENT—Your Committee, appointed by you under direction of a vote of the Council, to inquire into the legal and proper action of this House in relation to the filling the offices of Territorial Treasurer and Auditor, beg leave to report that they have examined the subject, and find that the legal and proper course to be pursued in relation to the appointment of Territorial Treasurer and Auditor under the existing laws, is, that an obligation is imposed upon the Governor to appoint and the Council to confirm or reject such appointment.

Your Committee having the knowledge, in conjunction with the Council, that His Excellency has already complied with the law by the appointment of those officers in a message to the Council before your Committee was appointed, recommend to the Council that we proceed in executive session to confirm or reject said appointment.

JAMES G. SPRATT,
CHARLES S. BAGG,
Special Committee.

On motion of Mr. Bagg, the Council went into executive session.

By consent, Mr. Bagg introduced "An Act prescribing the mode and manner of arresting individuals in civil cases."

Rules suspended, bill read first and second time by its title, and referred to Committee on Judiciary.

Mr. Phelps, in pursuance to previous notice, introduced C. B. No. 42, "An Act dissolving the bonds of matrimony between Sarah Schell and George W. Schell."

Read first and second time, and, on motion of Mr. Merriman, the rules were suspended, the bill was read the third time, and passed by the following vote:

Yeas—Messrs. Bagg, Merriman, and Phelps—3.
Nays—Messrs. McCormick, and Mr. President—2.

Messrs. Spratt and Leavitt were excused from voting.

Mr. McCormick, chairman of the Committee of the Whole, made the following report:

MR. PRESIDENT—Your Committee of the Whole, to whom was referred C. B. No. 21, recommend the adoption of the following amendments:

That in the 4th line of section 1, the word "ten" be stricken out, and the word "twenty" inserted.

That the word "three" be stricken out in 12th line, and "five" inserted.

That the word "two," in 4th line, section 3rd, be stricken out, and "three" be inserted.

That the word "at" be stricken out, and after the word "stander," the following be inserted, in section 6, last line: "or who have been in attendance on."

That in section 7, line 4, the word "ten" be stricken out, and the word "twenty" be inserted; and the word "two," in same section, line 11th, be stricken out, and "three" be inserted.

That in section 9, the following be inserted after the word "Territory": "and *bona fide* residents of the county."

Also, in section 11, strike out the words "two hundred," in 5th line, and insert "fifty."

W. J. MCCORMICK,
Chairman of Committee of the Whole.

Report received and adopted.

Mr. Merriman offered the following Joint Resolution No. 4:

Be it Resolved, By the Council, the House of Representatives concurring, and the Governor approving—

That the Secretary of the Territory of Montana be and is hereby authorized and required to furnish the territorial and county officers one copy each of all the acts of the Legislative Assembly of the Territory; also, that he be and is hereby authorized and required to furnish the members of the several Legislative Assemblies, the Secretaries and Chief Clerks thereof, with two copies each of the Journals of both Houses of said Legislative Assemblies, as soon as the same are published and returned to him.

Which was, on motion of Mr. McCormick, adopted.

Mr. Bagg offered the following resolution:

Resolved, By the Legislative Council, that it advises and requests of His Excellency the Acting Governor, on commissioning the officers of Auditor and Treasurer for this Territory, which the Council has this day confirmed, in accordance with the Executive appointment, that said commissions shall be conditional that they hold the said offices until their successors are appointed or elected.

Which, on motion, was adopted.

The rules were suspended, and Mr. Spratt, chairman of Committee on Towns and Counties, reported House Bill No. 6, "An Act defining the county of Vivian and boundaries thereof, and establishing the county seat of the same," back to the Council, and recommend it be considered in the Committee of the Whole.

Report received.

Mr. Bagg, of the Committee on Incorporations, made the following report on H. B. No. 9, "An Act authorizing Joseph V. Stafford and others to establish a ferry on the Missouri river," and begs leave to report the same back to the Council, with the following amendments:

1st. That the said bill is too vague and uncertain as to the point where said ferry crosses the said Missouri river.

2nd. That, in section 3rd, all of the said line be stricken out in words following: "For footmen, twenty-five cents."

Report received.

On motion made by Mr. Merriman, H. B. No. 9 was laid on the table.

Mr. Spratt, chairman of Committee on Incorporations, to whom was referred C. B. No. 35, "An Act to incorporate the Sun River Bridge Company," reported the same back to the Council, with the following report:

That not having any information in relation to the merits of this act, they would report the same back, and recommend its consideration in Committee of the Whole.

JAMES G. SPRATT, *Chairman.*

Mr. McCormick moved to lay the bill on the table. Lost.

Mr. Bagg moved the report of the Committee be adopted. Carried.

Mr. Bagg, chairman of Committee on Incorporations, made the following report on C. B. No. 39:

Your Committee, to whom was referred C. B. Nos. 39 and 40, find the two bills alike, and beg leave to report the one back to the Council for their consideration, being C. B. No. 39, with the following amendments:

1st. After the words "Summit district," in section 1st, insert the words "Madison county, Montana Territory."

2nd. At the end of section 2nd, insert the words "under the local laws of said mining districts."

3rd. In section 3rd, after the word "purchase," in 4th line, the words "according to the local laws of said district."

CHARLES S. BAGG, *Chairman.*

Report received, and filed for further consideration.

Mr. McCormick moved to adjourn, which was lost.

On motion of Mr. Spratt, C. B. No. 24 was made the special order for 2 o'clock, P. M.

On motion, H. B. No. 1 was called up, "An Act to repeal an act concerning extra compensation."

Mr. Bagg moved to lay the bill on the table. Lost.

On motion of Mr. Bagg, it was ordered that the Clerk of the House be requested to indorse upon H. B. No. 1 the action of the House upon said bill.

On motion of Mr. McCormick, the vote was reconsidered, and the resolution was withdrawn.

Mr. Bagg then offered the following resolution, which was adopted:

Resolved, That the Clerk of the Council inform the House, that the proceedings of the House on H. B. No. 1 are not sufficiently explicit, and indorsed on said bill for the information of the Council, and ask action of the House on said subject.

Mr. Bagg, chairman of the Committee on Enrollment, made the following report, which was received:

MR. PRESIDENT—Your Committee on Enrollment beg leave to report that they have examined C. B. No. 34, and find it correctly enrolled.

CHARLES S. BAGG, *Chairman.*

On motion of Mr. Bagg, Council adjourned until 2 o'clock, P. M.

AFTERNOON SESSION.

Council met pursuant to adjournment. Mr. President in the chair.

All the members in their seats.

C. B. No. 24 being the special order, the Council, on motion, went into Committee of the Whole, to consider said bill.

On motion of Mr. Bagg, the Committee of the Whole arose.

Mr. Merriman, chairman of Committee of the Whole, asked further time to report.

H. B. No. 14 was called up, read first and second time, and, on motion of Mr. McCormick, the rules were suspended, bill read third time, and lost by the following vote:

Yeas—Messrs. Leavitt, and McCormick—2.
Nays—Messrs. Phelps, Spratt, and Mr. President—3.

Messrs. Bagg and Merriman excused from voting.

H. B. No. 1 was taken up, and, on motion of Mr. Bagg, was laid on the table.

On motion of Mr. McCormick, Council adjourned to 10 o'clock, A. M., to-morrow.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

SEVENTEENTH DAY.

MARCH 21, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Mr. Phelps absent.

Journal of previous day read and approved.

Committee on Enrollment reported C. B. No. 4 correctly enrolled.

Mr. Merriman, chairman of the Committee of the Whole, made the following report:

That they have had under consideration C. B. No. 24, "An Act to incorporate the Great Beaver Head Wagon Road Company, and beg leave to report the same back, with the following amendments:

1st. Amend so as to read in section 2, fourth line, "At a point the corporation may select at or near the southern boundary line of this Territory."

2nd. To be added to section 2: "*Provided*, that the commissioners of Beaver Head county, or the citizens thereof, shall have the right to construct any public road or roads, crossing or diverging from the said toll road at any or all points on said road in Beaver Head or Stinking Water Valleys."

3rd. When said company shall have fully completed said road according to the provisions of section 4, they shall be authorized to establish two toll gates—one at the mouth of Beaver Head Canon, and one at or near the boundary line of said Territory.

5th. Or if the said company shall take or receive toll upon said road when the same, or any part thereof, shall be in bad condition for travel with wagons, after having been notified of the bad condition of said road.

6th. And one-half of all fines so collected shall go to the informant; the other half to the common school fund of this Territory. N. MERRIMAN, *Chairman.*

Report received and adopted.

Mr. Merriman, chairman of Select Committee, to whom was referred that portion of the Governor's Message referring to appropriations, made the following report:

MR. PRESIDENT—Your Committee on Internal Improvements, to whom was referred that portion of the Governor's Message relative to roads and the improvement of the navigation of the Missouri river, beg leave to report as follows:

That the wants of the people of this Territory require that all the public highways and avenues of travel, between this and other portions of our country, be kept open and free from all obstructions at all seasons of the year. Our isolated and distant position both from the markets of the East and the Pacific slope of the West, necessarily impose upon our citizens onerous burdens even for the necessaries of life, which can be obviated only by fostering the agricultural interest of the Territory, and opening and constructing new roads, shortening the distance usually traveled by the "weary pilgrim" to our land of gold and other precious metals, of which every mountain side, deep gorges and gulches, so abundantly abound; as well as clearing and removing the obstructions from the Missouri river as far north as the mouth of the Maria. The obstructions to the navigation of the Missouri river could, in the opinion of your Committee, (from actual observation,) be removed with but a trifling expense to the government compared with the benefit that would accrue to it from the increase of commercial intercourse between Montana and the East, and at the same time would increase the travel, and relieve us of the extraordinary high prices which are now demanded by our merchants for all they sell us. The Committee heartily concur with the Acting Governor in the necessity of memorializing Congress to make appropriations, both for the removal of obstructions from the Missouri river as far up as the mouth of the Maria, as well as opening and constructing a wagon road on the route

known as the Niobrara or Sawyer road, from the Missouri river to this place. Both of these routes are equally important to the welfare and prosperity of this Territory, and your Committee believe will be appreciated and favorably considered by Congress, if early and proper representations are made.

We are equally interested in opening the channels of commerce and trade with our neighbors on the Pacific slope, and should do everything in our power by proper legislation to encourage any enterprise, either of a private or public character, which will remove the barrier to travel and traffic interposed between us by the chain of Rocky Mountains.

It is the true policy of every people and country so to direct its legislation as to encourage traffic and interchange of commodities with its neighbors, and to facilitate and cheapen the means of travel and transportation of all articles of commerce. We therefore recommend a memorial from the Legislature to Congress, asking for an appropriation for the purpose herein stated.

All of which is respectfully submitted.

N. MERRIMAN, *Chairman.*

Report received, and one hundred copies ordered printed.

Mr. Spratt gave notice that he would, on to-morrow or some subsequent day, introduce "A bill to incorporate the Montana and Pacific Wagon Road Company."

H. B. No. 3 was called up, and read first time.

Mr. Bagg moved to lay the bill on the table. Lost.

Read second time by its title.

Mr. Bagg moved to lay the bill on the table. Lost.

Mr. McCormick moved it be referred to Committee on Incorporations. Lost.

Mr. Merriman moved it be referred to Committee of the Whole.

Mr. Merriman moved to lay the motion on the table. Carried.

Mr. Leavitt moved to lay the bill on the table. Carried.

Mr. Spratt, chairman of Committee on Judiciary, made the following report on C. B. No. 13:

Report the same back, with the following amendments:

Strike out, in line 4, section 3, the words "or from a probate judge."

Strike out, in section 4, line 5, the words "seventy-three," and insert the word "two."

Also, in same section, add, in third line, words "or clerk," after the word "judge," and in last line strike out the words "of the county," and insert the words "judge or," before the word "clerk," and after word "clerk," add the words "in the court where the action is brought."

In section 5, first line, after "judge," insert "or clerk," and in last line of section 5, insert "or judge" after the word "clerk."

In section 9, last line, strike out the word "chapter," and insert "this act."

In section 16, sixth line, before "judge," insert "clerk or." Same line, strike out "county clerk," and insert after "probate judge," the words "in which the action is brought."

In section 18, strike out, in third and seventh lines, the word "county."

Amend, after the word "reduced," section 27, by way of new section, the following as section 28:

"This act to take effect and be in force from and after its passage and approval by the Governor."

JAS. G. SPRATT, *Chairman.*

Report received, and bill ordered engrossed.

Mr. Bagg offered the following resolution:

Resolved, That the Secretary of the Territory be, and is hereby required to forward to the President of the Senate, Speaker of the House of Representatives, and our Delegate to the Congress of the United States at Washington, D. C., copies of Joint Memorial No. 3.

On motion of Mr. McCormick, the resolution was laid on the table for the present.

Mr. Bagg also introduced Joint Memorial No. 3, as follows:

To the Senate and the House of Representatives of the United States in Congress assembled:

Your memorialists, the Council and House of Representatives of Montana Territory in session, most respectfully represent that the establishment of an agricultural college would conduce to the permanent and ultimate good of the people who have chosen their residence in this magnificent and prospering Territory, among these lofty mountains, and in the valleys of the Gallatin, Bitter Root, Deer Lodge, Prickly Pear, Sun River, Yellowstone, Big Horn, Jefferson, Big Hole, Stinking Water, Boulder and Beaver Head, by bringing the representative sons of the families residing in the various valleys mentioned into a proximity of pupilage, and therefore would ask and pray that your honorable body will appropriate a sum not less than fifty thousand dollars, to be applied to the building of an agricultural college at some point in this Territory, the location of which shall be prescribed by law. Your memorialists urge most earnestly the appropriation of the said fifty thousand dollars for the worthy object mentioned in this memorial, and will ever pray, etc.

CHARLES S. BAGG.

Received and adopted.

H. B. No. 1 was called up, "An Act to repeal an act to provide increased compensation to officers in this Territory," and read with amendment proposed by the House.

Mr. Spratt moved that the Council concur in the amendment offered by the House.

Carried by the following vote:

Yeas—Messrs. Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—6.

Nays—None.

Mr. Bagg was excused from voting.

Mr. Bagg moved the rules be suspended, and joint memorials and resolutions be taken up. Carried.

Joint memorial No. 1 was then taken up, read third time, and passed.

Joint Memorial No. 2 was taken up, read third time, and passed.

Mr. McCormick moved that the Council go into Committee of the Whole, to consider H. B. No. 6 and C. B. No. 35. Carried.

The following communication was received from the Governor:

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
VIRGINIA CITY, March 21, 1866.

To the Hon. Anson S. Potter, President of the Council:

SIR—I have the honor to inform your honorable body that I have this day received and approved Council Bill No. 34, entitled "An Act to dissolve the bonds of matrimony between Allen Anson and Annette Anson."

I have the honor to be,
Your obedient servant,
THOMAS FRANCIS MEAGHER,
Acting Governor.

Mr. Leavitt moved that the Committee rise. Carried.

Mr. McCormick, chairman of the Committee of the Whole, asked further time to report. Granted.

Mr. Bagg, chairman of Committee on Incorporations, made the following report:

Your Committee on Incorporations, to whom was referred C. B. No. 36, entitled "An Act to incorporate the Kercheval Town Association," having had the same under consideration, your Committee are of opinion that inasmuch as said bill does not designate any particular place or locality in this Territory, but authorizes said corporation to purchase, hold and convey any estate, real or personal, with a capital stock of $400,000, would amend: after "corporation," in sixteenth line, insert the words "not interfering with the prior or vested rights of other persons."

Strike out all of section 4 of the act.

Report received and adopted.

The following communication was received from the House:

HOUSE OF REPRESENTATIVES.

MR. PRESIDENT—I am authorized to inform the Council that the following bills have been introduced into the House:

H. B. No. 29, "An Act to incorporate the Montana Flume Mining Company."

H. B. No. 30, "An Act to divorce Martha A. and Allen Williams."

H. B. No. 31, "An Act to establish a ferry on the Missoula river."

H. B. No. 32, "An Act entitled an act defining the duties of Territorial Auditor and Treasurer.

The following bills were lost:

C. B. No. 37, "An Act dissolving the bonds of matrimony between Margaret Maloney and D. Maloney."

H. J. R. No. 3, on "A general corporation act." Read third time, and lost.

C. B. No. 38, "An act dissolving the bonds of matrimony between F. A. Richardson and Foster A. Richardson."

I am also instructed to inform you that the House have appointed Messrs. Maxwell, Rice and Parrott as a Committee on the part of the House to confer with Messrs. McCormick and Phelps of the Council, to report a fee bill.

The following notices were given of the introduction of bills:

By Mr. Mayhew, of "A general incorporation act."

By Mr. Maxwell, of "An Act to incorporate the Montana Mutual Fire Insurance Company."

Respectfully submitted.

JNO. F. RUCKER,
Chief Clerk of House of Representatives.

Also, the following was received and read:

HOUSE OF REPRESENTATIVES,
March 21st, 1866.

MR. PRESIDENT—I am authorized to inform the Council of the passage in the House of H. J. R. No. 4.

Respectfully,

JNO. F. RUCKER,
Chief Clerk, House of Representatives.

On motion of Mr. McCormick, the Council adjourned until 2 o'clock, P. M.

AFTERNOON SESSION.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Mr. McCormick absent.

Mr. Bagg, chairman of Committee on Printing, reported C. B. No. 10 now in type.

C. B. No. 10 called up, and read the third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, Merriman, Phelps, and Mr. President—5.

Nays—None.

Messrs. Spratt and McCormick absent.

Mr. Merriman called to the chair.

C. B. No. 25 was called up and read for information.

Mr. Potter moved the bill be indefinitely postponed. Lost.

Mr. Phelps moved the call of the House. Carried.

Mr. Bagg moved the call be suspended. Carried.

Mr. Phelps moved that C. B. No. 25 be laid on the table. Carried.

Mr. Bagg moved the call of the House. Carried.

Mr. Potter moved the call be suspended. Carried.

C. B. No. 31 was called up, and read for information, and on motion, the bill was indefinitely postponed.

Mr. McCormick, chairman of the Committee of the Whole, made the following report on C. B. No. 35:

The Committee of the Whole, to whom was referred C. B. No. 35, beg leave through their chairman to report the same back to the Council, with the following amendments:

Amend section 2 by striking out the word "2" and inserting the word "one."

Amend section 3 by striking out the word "six," and inserting the word "three."

Also, in same section, strike out the word "two," and insert the word "five."

After the word "month," in same section, insert the following: "unless prevented by Indian hostilities."

Report received.

Mr. McCormick, chairman of Committee of the Whole, made the following report on H. B. No. 6:

The Committee of the Whole, to whom was referred H. B. No. 6, beg leave to report the same back to the Council, with the following amendments:

Strike out the word "Vivion" wherever it appears in said bill, and insert the word "Missouri."

Insert after the word "ridge," "to the east line of Gallatin and Meagher counties, thence north along said line to the northern boundary of Meagher county, thence north along the 109th paralel of longitude to the place of beginning.

Report received.

Committee on Engrossment reported C. B. No. 21 correctly engrossed.

Rule suspended, and bill read second and third time, and bill passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—None.

Mr. McCormick reported C. B. No. 24 correctly engrossed.

C. B. No. 24 was called up and read for information.

Mr. Potter offered the following amendments to C. B. No. 24:

That the word "three" be stricken out in line 18, section 2, and the word "two" be inserted.

Also, in 24th line, after the word "thereof," insert the following: "or the county commissioners of Madison county or the citizens thereof."

Carried.

Mr. Leavitt moved that the rule be suspended, and the bill was read third time and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, Phelps, and Spratt—4.
Nays—Messrs. McCormick, Merriman, and Mr. President—3.

Mr. Phelps moved a reconsideration of the vote. Carried.

Mr. Bagg moved to lay the bill on the table. Lost.

Mr. Leavitt moved a suspension of the rule, and C. B. No. 24 was read third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, Phelps, and Spratt—4.
Nays—Messrs. McCormick, Merriman, and Mr. President—3.

H. B. No. 6 was called up, and ordered engrossed as amended.

C. B. No. 33, called up, and amendments adopted.
Read third time, and ordered engrossed, with amendments.

Mr. Bagg, with the consent of the Council, offered the following resolution:

Resolved, That the former resolution which has passed this Council, authorizing the printing of all general laws or bills, is hereby repealed.

Adopted.

Mr. McCormick gave notice that he would, on to-morrow or some subsequent day, introduce a bill to incorporate the Montana Mutual Fire Insurance Company.

C. B. No. 34 was called up, and on motion of Mr. McCormick, the Council went into Committee of the Whole.

On motion of Mr. McCormick, the Committee arose.

Mr. Phelps, chairman of the Committee of the Whole, reported progress.

Mr. McCormick moved that C. B. No. 34 be made special order for to-morrow, 10 o'clock.

On motion of Mr. Merriman, the Council adjourned to 10 o'clock, to-morrow morning.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

EIGHTEENTH DAY.

MARCH 22, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—All the members in their seats.

Journal of previous day read and approved.

Petition from the citizens of Virginia City. Read, and referred to Committee on Incorporations.

Petition from the Mining Bureau. Read, and referred to Committee on Judiciary.

The following communications were received from the Governor:

EXECUTIVE OFFICE, MONTANA TERRITORY,
VIRGINIA CITY, March 22, 1866.

To the President of the Council:

SIR—I have had under my serious consideration for the last three days, the Act divorcing John F. Godfrey and Mary E. Godfrey, and have finally approved it, being satisfied it is a just, proper and necessary act, and one which neither of the parties will find fault with.

I have given this Act reflection and inquiry which the grave, critical and sacred character of such a dispensation not merely intimates but demands. And whatever delay occurs in my action upon all such Acts should be ascribed to my estimate of the

solemn consequences involved in them, as well as the amount of justification upon which they are based.

I have the honor to be,

Your ob't servant,

THOMAS FRANCIS MEAGHER,

Acting Governor.

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
VIRGINIA CITY, March 22, 1866.

To the President of the Council:

SIR—I have the honor to inform your honorable body that I have this day approved and signed C. B. No. 4, "An Act concerning dower."

I am, very truly yours,

THOMAS FRANCIS MEAGHER,

Acting Governor.

Special order C. B. No. 34; and on motion of Mr. McCormick, the Council went into Committee of the Whole.

On motion of Mr. Bagg, the Committee arose.

Mr. Phelps, chairman of Committee of the Whole, made the following report:

MR. PRESIDENT—Your Committee of the Whole, to whom was referred C. B. No. 34, report that they have had the same under consideration, and report the same back to the Council with the following amendments:

That section 1st of said bill be stricken out; and report no further progress.

E. F. PHELPS, *Chairman.*

Report accepted.

On motion of Mr. Leavitt, the bill was indefinitely postponed.

Mr. McCormick, chairman of Committee on Ways and Means, made the following report:

MR. PRESIDENT—Your Committee, to whom was referred C. B.

No. 28, "An Act to create a fund for the benefit of schools," have had the same under consideration, and beg leave to report the same back to the Council, with the recommendation that it pass, believing that it is a measure that will in time contribute a large fund for the education of the children of our Territory.

W. J. McCORMICK, *Chairman.*

Report received, and bill placed on file.

The chairman of Committee on Engrossment reported the following bills correctly engrossed:

Council Bill No. 33, Council Bill No. 41, and House Bill No. 6.

Report received.

Mr. Bagg offered the following resolution:

Resolved, That the Council do instruct their Committee on Apportionment, and ask the House to instruct theirs also, to report a bill on the subject of the apportionment of this Territory of Montana into representative districts for members of the House of Representatives and of the Council of the Legislative Assembly of the Territory of Montana, to report a bill to their respective Houses (House and Council) on said subject any time before 10 o'clock on Saturday morning next, but no longer.

The resolution was adopted by the following vote:

Yeas—Messrs. Bagg, Leavitt, Merriman, Phelps, and Mr. President—5.

Nays—Messrs. McCormick and Spratt—2.

Mr. McCormick, under previous notice, introduced C. B. No. 43, "An Act to incorporate the Montana Mutual Fire Insurance Company."

Rule suspended.

Bill read first and second time, and referred to Committee on Incorporations.

Mr. McCormick, under previous notice, introduced C. B. No. 44, "An Act authorizing Z. F. Moody and T. W. Davidson to construct and maintain a portage and wagon road or railroad around Cabinet Rapids on Clark's Fork of the Columbia river."

Rule suspended, bill read first and second time, and referred to Committee on Incorporations.

Mr. McCormick, under previous notice, introduced C. B. No. 45, "An Act to incorporate the Flat Head River Ferry Company."

Rule suspended, bill read first and second time, and referred to Committee on Incorporations.

Mr. McCormick, under previous notice, introduced C. B. No. 46, "An Act to incorporate the Prickly Pear and Missouri River Ferry Company."

Rule suspended, bill read first and second time, and referred to Committee on Incorporations.

H. B. No. 10 was called up and read first and second time, rule suspended, and the bill was read third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—None.

On motion of Mr. McCormick, Council adjourned until 2 o'clock, P. M.

AFTERNOON SESSION.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called. Mr. Merriman absent.

Mr. Spratt, chairman of Committee on Incorporations, reported C. B. No. 44, No. 45 and No. 46 back to the Council, and recommend they be considered in Committee of the Whole.

Report received and adopted.

On motion of Mr. McCormick, the Council went into Committee of the Whole, to consider Council Bills Nos. 44, 45 and 46.

On motion of Mr. Bagg, the Committee arose.

Mr. McCormick, chairman of Committee of the Whole, asked for further time to report. Granted.

C. B. No. 18 was called up, and on motion of Mr. McCormick, the Council concurred in the amendments offered by the House by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Spratt, and Mr. President—5.
Nays—Messrs. Merriman and Phelps—2.

The chairman of Committee on Incorporations reported C. B. No. 43 back to the Council, and recommend that it be considered in Committee of the Whole.

On motion of Mr. McCormick, the Council went into Committee of the Whole, to consider C. B. No. 47.

On motion of Mr. Phelps, the Committee arose.

Mr. McCormick, chairman of the Committee of the Whole, asked for further time to report. Granted.

Mr. Spratt, under previous notice, introduced C. B. No. 48, "An Act to incorporate the Fairweather District Bed Rock Flume Company."

Read first time, and, on motion of Mr. Bagg, the bill was laid on the table.

H. B. No. 6 was called up and read third time, and bill passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Spratt, and Mr. President—5.

Nays—Messrs. Merriman and Phelps—2.

C. B. No. 9, C. B. No. 5, and C. B. No. 12, were called up, and ordered to be returned to the House, and the Clerk of the House be required to inform the Council of the amendments adopted by the House.

Mr. Spratt, chairman of Committee on Judiciary, reported C. B. No. 47 back to the Council, and recommend it be considered in Committee of the Whole.

Report received and adopted.

On motion of Mr. McCormick, the Council adjourned until to-morrow, at 10 o'clock, A. M.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

NINETEENTH DAY.

MARCH 23, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Mr. Leavitt absent.

Journal of previous day read and approved.

Mr. Merriman, from Joint Committee, reported that they have had under consideration a general fee bill, which will be presented to the House of Representatives for their action thereon.

Mr. Bagg, without previous notice, introduced C. B. No. 49, "An Act to amend an act entitled an act defining the boundary lines of counties in Montana Territory, passed at the First Legislative Assembly, and defining the lines of Madison county, in Montana Territory."

Read first and second time, and ordered engrossed.

Mr. Merriman asked leave to introduce C. B. No. 50, without previous notice, "An Act to incorporate the Capital Addition Town Company."

Read first and second time, and referred to Committee on Incorporations.

Mr. McCormick, chairman of Committee of the Whole, to whom was referred C. B. No. 44, "An Act to incorporate the Columbia River Portage and Railroad Company," beg leave to report the same back to the Council, with the following amendments:

Add to section 1: "That the next, or any subsequent Legis-

lature shall have the right to fix and regulate the rates of toll, freight and transportation."

In section 2, strike out the words "two miles," and insert "three rods."

Report received.

Mr. McCormick, chairman of the Committee of the Whole, also reported C. B. No. 45, with the following amendments:

In section 2, strike out the words "two miles," and insert "four rods."

Also, the same Committee reported C. B. No 46 back to the Council, with the following amendments:

In section 2, lines eleven and twelve, strike out the word or figure "2," and insert the word "one."

In the 12th line, after the word "and," and insert, in lieu thereof "That it shall be the duty of the county commissioners of Edgerton county, at their first meeting after being notified of all or any of the incorporations, to establish such rates of toll as to them may seem just and right."

Strike out, in section 3, the word "ten," and insert the word "five."

W. J. McCORMICK,
Chairman of Committee of the Whole.

Mr. Leavitt, chairman of Committee on Public Lands, made the following report:

MR. PRESIDENT—Your Committee, to whom was referred that portion of the Governor's Message which relates to public lands, report as follows:

No Surveyor General for the Territory of Montana has yet appeared, or the failure of the officer, if appointed, to be present and discharge his assigned duties, operates to the manifest disadvantage of this country, and especially its agricultural interests. In an unbroken and consistent line of policy, Government has recognized the eminent rights of occupants of the public domain, and with the haste consistent with the public good, caused surveys to be made for the convenience and advantage of the Ter-

ritories of the United States. Your Committee would urge that the early appointment of a Surveyor General, who shall be directed to enter upon the immediate administration of his duties, is a matter of manifest importance to our Territory.

The gravest and most critical question, however, arising in the consideration of public land affairs, is that lately thrust upon us in the mooted proposition for the sale of mineral lands. For the first time in our history has such an attempt been boldly and seriously entertained by Congress. The necessity for the creation of a revenue system, rendered unavoidable by the sudden and vast accumulation of a national debt, impose new and unavoidable conditions upon the people of the States and Territories. To meet the extraordinary financial situation, all departments of business and every field of enterprise, by a ready and simple confession of the whole country, must be touched and affected by the tremendous exigencies of the late civil war. The logical results of the conflict of arms, as affecting the financial condition of the nation, are accepted by all; and the whole country acknowledges its obligation to establish and submit to a system of government revenue. But the sale of mineral lands cannot be justly included in any judicious plan for the increase of revenue. To the extent that the free occupation and possession of mineral lands according to general mining customs, are subjected to new conditions of ownership, will the development of mining regions be delayed, and the bringing to light of their hidden wealth held in abeyance to a mistaken and disastrous policy. Your Committee are positive that they utter the unanimous and unqualified judgment of all the Territories of the United States, that any sale or strange system of royalty will defeat its proposed object, and prove fruitless of advantage to the General Government, as well as fatally crushing to mining interests. The people of the Territories, with earnestness and loyalty, protest, in behalf of the interests of the General Government, as well as their own, against any contemplated scheme that will end in ruin to us, and result in no good to the United States.

We do not wish to be understood as petitioning to enjoy an immunity from a general burden, or, in a spirit of selfishness, to ask a special exemption in our favor. Experience proves that the utmost latitude, under customary and gentle restriction, will ensure

the most triumphant exhibit of local wealth and general prosperity that always attends the confession and support of a vital and traditional principle. The only wise and practicable course to be pursued for an increase of revenue from mineral lands in a spirit of justice and policy, is that which does not disturb or qualify the usual principles of occupancy and possession.

E. D. LEAVITT, *Chairman.*

Report received, and two hundred and fifty copies ordered printed.

Mr. Spratt introduced a remonstrance from certain citizens of Virginia City against the repeal of the city charter.

Read, and referred to Committee on Incorporations.

C. B. No. 5 was taken up, together with the amendments as made by the House, and, on motion of Mr. Bagg, the bill was indefinitely postponed.

Communication from the House:

HOUSE OF REPRESENTATIVES,
March 23, 1866.

MR. PRESIDENT—I am instructed to inform the Council of the disposition of the following bills, joint memorials and resolutions:

Of the introduction, by Mr. McCullough, of—

"A bill amendatory of an act to establish a common school system for the Territory of Montana, approved February 7, 1865."

Of the passage of joint resolutions—

C. J. R. No. 1, read first and second time, rules suspended, and resolution passed.

C. J. R. No. 2, read first and second time, rules suspended, and resolution passed.

H. J. R. No. 5, "Appointing the 31st day of March for the adjournment of the Legislative Assembly," was laid on the table indefinitely.

C. B. No. 10, "An Act requiring clerks of the district courts to give bonds." Read first and second time, the rules were suspended, and bill read third time and passed.

H. B No. 28, "An Act to amend an act defining the boundary lines of counties in Montana Territory, passed February 8, 1865." Read third time, and passed.

H. B. No. 31, "An Act to establish a ferry on the Missoula river." Read third time, and passed, and title agreed to.

H. B. No. 30, "An Act to divorce Martha A. and Allen Williams." Laid on the table indefinitely.

H. B. No. 16, "An Act to amend an act authorizing Owen Lootsenhisen to establish a ferry on the Missoula river." Laid on the table.

C. B. No. 18, "An Act to authorize J. S. Mead and others to establish a toll road." Rules suspended, and bill passed.

C. B. No. 42, "An Act dissolving the bonds of matrimony between Sarah Schell and Geo. W. Schell." Read first and second time, rules suspended, and bill, on its final passage, was lost.

H. B. No. 10, "An Act to incorporate the Jefferson River Water Ditch Company." Read third time, bill passed, and the title agreed to.

Respectfully,

JOHN F. RUCKER,

Chief Clerk of House of Representatives.

C. B. No. 9 was taken up, and, on motion of Mr. McCormick, the Council went into Committee of the Whole for its consideration.

On motion of Mr. Bagg, the Committee arose.

Mr. McCormick, chairman of Committee of the Whole, made the following report:

That they have had C. B. No. 9 under consideration, and

report the following resolution, offered by Mr. Spratt, and recommend that the Council adopt the same, to wit:

Resolved, By the Council, in the Committee of the Whole, that the House be requested to furnish the Council with C. B. No. 9, as passed by the Council, without erasure, interlineation or mutilation, and that the bill purporting to be the original bill be herewith transmitted to the House.

W. J. McCORMICK,
Chairman of Committee of the Whole.

Report accepted and adopted.

Mr. McCormick, chairman of the Committee of the Whole, reported C. B. No. 43 back to the Council for further consideration.

Report received.

C. B. No. 43 was taken up, and, with consent of the Council, Mr. McCormick offered a substitute, which was adopted.

Mr. Bagg offered the following amendments:

After word "company," in section 3, line eight, insert the following: "That the stockholders shall have the right to alter or change the by-laws at any meeting of said association, by a majority vote of the said stockholders."

Adopted.

Mr. Phelps offered the following amendment to C. B. No. 43:

After "and," annex to section 1: "That the books of said company shall be open to the inspection of any of the stockholders of said company."

Adopted, and bill ordered engrossed.

On motion of Mr. McCormick, the Council adjourned until 2 o'clock, P. M.

Afternoon Session.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Messrs. Phelps and Merriman absent.

Mr. Bagg moved that the Chief Clerk be empowered to employ an extra clerk for the remainder of the session. Carried.

Messrs. Phelps and Merriman appeared in their seats.

H. B. No. 31 was called up and read first and second time, and referred to Committee on Incorporations.

H. B. No. 28 was called up, read first and second time, and on motion of Mr. Bagg, the bill was laid on the table.

Mr. McCormick, chairman of Committee on Engrossment, reported C. B. No. 49 correctly engrossed.

Report received and adopted.

C. B. No. 49 was called up, read third time, and passed by the following vote :

Yeas—Messrs. Bagg, McCormick, Merriman, Phelps, Spratt, and Mr. President—6.

Nays—None.

Mr. Leavitt absent.

C. B. No. 13 was called up, and on motion of Mr. Spratt, Council went into Committee of the Whole.

On motion of Mr. Bagg, the Committee arose.

Mr. McCormick, chairman of Committee of the Whole, asked further time to report on C. B. No. 13. Granted.

Mr. Bagg, chairman of the Committee on Enrollment, reported C. B. No. 10 correctly enrolled.

H. B. No. 6 was called up, and read.

Mr. Bagg moved that the Council refuse to recede from their amendment to H. B. No. 6, "An Act creating the county of Vivian." Carried.

Mr. Phelps, without previous notice, introduced C. B. No. 51, "An Act to authorize James Talbot and others, to establish a ferry on the Missouri river at the mouth of the Muscle Shell, opposite Kerchival City."

Read first and second time, and referred to Committee on Incorporations.

On motion of Mr. Bagg, H. B. No. 28 was taken from the table.

Mr. Bagg moved the bill be indefinitely postponed. Lost.

On motion of Mr. Phelps, the bill was laid on the table for further consideration.

C. B. No. 43 was called up, and read third time and passed by the following vote:

Yeas—Messrs. Bagg, McCormick, Merriman, Phelps, Spratt, and Mr. President—6.

Nays—None.

Absent—Mr. Leavitt.

C. B. No. 28 was called up, and read first and second time, and on motion of Mr. Bagg, was referred to Committee on Judiciary.

On motion of Mr. Merriman, the Council adjourned to 10 o'clock, A. M., to-morrow.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

TWENTIETH DAY.

MARCH 24, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—all the members present.

Journal of previous day read and approved.

Mr. Spratt, chairman of Committee on Incorporations, reported C. B. No. 50 and C. B. No. 51 back to the Council, and recommend that they be considered in Committee of the Whole.

Also, H. B. No. 31.

Report received.

The following communication was received from the Governor:

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
VIRGINIA CITY, March 24th, 1866.

To the President of the Council:

SIR—I have the honor to inform your honorable body, that I have this day approved C. B. No. 17, entitled "An Act to divide the present county of Gallatin and create two counties of the same."

I have the honor to be,
Very truly, your obedient servant,
THOMAS FRANCIS MEAGHER,
Acting Governor.

The Committee on Enrollment reported C. B. No. 18 correctly enrolled.

C. B. No. 12 was taken up, and on motion of Mr. Phelps, the bill was laid on the table.

The following communication was received from the House, and read:

HOUSE OF REPRESENTATIVES,
Saturday, March 24, 1866.

To the President of the Council:

SIR—I am authorized to inform your honorable body of the disposition of the following bills, and notices given of the introduction of the same:

Mr. Mimms gave notice of the introduction of "An Act to invest religious societies with certain powers of bodies corporate."

Bills introduced—

H. B. No. 33, "An Act regulating fees of officers, jurors and witnesses."

H. B. No. 34, "An Act to amend an act entitled an act to establish a common school system for the Territory of Montana, approved Feb. 7, 1865."

Read first and second time, rule suspended, bill read third time, and passed.

Title agreed to.

H. B. No. 35, "An Act for maintaining and defining possessory actions upon the public domain in Montana Territory."

Following bills passed, to wit:

H. B. No. 11, "An Act regulating the term of the probate courts of Deer Lodge county, and fixing the places of holding the same."

Read third time and passed.

Title agreed to.

H. B. No. 25, "An Act authorizing J. M. Wood and John Stone to establish a ferry on the Missouri river."

Read third time, and title agreed to.

H. B. No. 27, "An Act to prohibit marriage and cohabitation of whites with Chinese and persons of African descent."

Read third time, and bill passed.

H. B. No. 32, "An Act to amend an act entitled an act defining the duties of Territorial Auditor and Treasurer."

Read third time, and passed.

H. B. No. 29, "An Act to incorporate the Montana Flume and Mining Company."

Read with amendments, and on motion, bill laid on the table indefinitely.

H. B. No. 21, "An Act to incorporate the Ohio Ditch Company."

Read third time, and passed.

Respectfully submitted,
JOHN F. RUCKER,
Chief Clerk H. of R.

H. B. No. 11, "An Act regulating the time of the probate courts of Deer Lodge county, and fixing the places of holding the same," was taken up, read first and second time, and on motion of Mr. Bagg, the bill was laid on the table.

H. B. No. 21, "An Act to incorporate the Ohio Ditch Company," was taken up, read first and second time, and referred to Committee on Incorporations.

H. B. No. 25, "An Act to authorize J. M. Wood and others, to establish a ferry on the Missouri river."

Read first and second time, and referred to Committee on Incorporations.

On motion of Mr. Bagg, the Council went into executive session.

H. B. No. 32, "An Act to amend an act defining the duties of Territorial Auditor and Treasurer of this Territory."

Read first and second time, and referred to Committee on Judiciary.

H. B. No. 34, "An Act to amend an act to establish a common school system for Montana," was read first and second time,

and, on motion of Mr. Bagg, the rule was suspended, and the bill was placed on its third reading.

On motion of Mr. Bagg, the vote suspending the rule was reconsidered, and the bill was referred to Committee on Education.

H. B. No. 27, "An Act to prohibit marriage and cohabitation of whites with Chinese and persons of African descent."

Read first time.

Mr. Leavitt moved to reject the bill. Lost.

Read second time, and bill was referred to Committee on Indian Affairs.

H. B. No. 4, "An Act for the better observance of the Lord's Day," was, on motion of Mr. Merriman, taken from the table, and

On motion of Mr. Leavitt, the bill was indefinitely postponed.

C. B. No. 33, "An Act to incorporate the Gold Hill Mining and Tunneling Company of Montana," was read for information.

On motion of Mr. Merriman, the bill was recommitted to Committee on Incorporations.

C. B. No. 35, "An Act to incorporate the Sun River Bridge Company."

On motion of Mr. Merriman, the report of the Committee of the Whole was adopted, and the bill was ordered to be engrossed.

C. B. No. 36, "An Act to incorporate the Kercheval Town Association," was called up and ordered to be engrossed, and placed on file for its third reading.

C. B. No. 39, "An Act to incorporate the Summit Gulch Mining Company," was ordered to be engrossed, with amendments.

C. B. No. 41, "An Act prescribing the mode and manner of arresting individuals in civil cases," was called up, read third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—None.

Mr. McCormick, chairman of the Joint Committee on Apportionment, reported C. B. No. 52, "An Act to provide for the increase of the Legislative Assembly of the Territory of Montana."

Read first and second time, and twenty-one copies ordered printed.

Mr. Leavitt, chairman of Committee on Indian Affairs, made the following report:

MR. PRESIDENT—Your Committee, to whom was referred H. B. No. 27, report the same back to the Council, and recommend that all after the enacting clause be stricken out.

E. D. LEAVITT, *Chairman.*

Report received.

On motion of Mr. Bagg, the bill was indefinitely postponed.

Mr. Bagg offered the following J. R. No. 4:

Resolved by the Council, the House concurring, of the Legislative Assembly of the Territory of Montana, That the public printer be and is hereby authorized, and it shall be his duty to print two hundred copies of the law known as the act relating to county and county officers, and amendments that shall be made thereto at this session, and passed at the First Legislative Assembly of the Territory of Montana, and approved by the Governor, and it shall be the duty of the Secretary of the Territory to distribute said copies thus printed among the various county officers of this Territory.

Resolution read first and second time, rule suspended, and resolution passed.

Mr. McCormick, chairman of the Committee of the Whole, to whom was referred C. B. No. 13, made the following report:

MR. PRESIDENT—Your Committee of the Whole, to whom was referred C. B. No. 13, respectfully report that they have had the same under careful consideration, and report the following amendments to the said bill, and recommend the passage of thes ame, with the said amendments, to wit:

In section 9, strike out "May require of them bonds with approved security for the faithful discharge of their duties, and for whose acts the judge appointing shall be responsible."

Also, strike out all of section 9 after the word "law" in next to the last line of that section.

Also, amend section 11 by striking out the word "courts" in first line, and inserting the word "judges."

Also, strike out section 6, and insert, in lieu thereof, "The probate courts or the judges thereof, in vacation, shall have full power and jurisdiction in all respects co-extensive with the district court or judges thereof, either in term time or at chambers, to try and determine all suits of mandamus, quo warranto, habeas corpus, and to grant injunctions in all cases where injunctions are allowed under the laws of this Territory; and shall have power to issue all writs, process or orders necessary and proper to the complete exercise conferred by the provisions of this act which writs, process or orders shall in all cases be made returnable and executed by the proper officer at the time and in the manner required by the laws of this Territory."

Also, add section 13:

"SEC. 13. Appeals shall be allowed in all cases from judgments, findings, decrees or final orders of said probate courts directly to the supreme court of this Territory in the same manner and in accordance with the same rules and practice now in this Territory regulating appeals from the district courts to the said supreme court, and all laws, acts, and parts of acts, in this Territory regulating appeals from the district courts to the supreme court of this Territory shall, in all respects, be applicable to said probate courts, and appeals therefrom to said supreme court."

Add section 14:

"SEC. 14. Be it further enacted, That all laws, acts, or parts of acts repugnant to or inconsistent with the provisions of this act, be, and the same are hereby repealed."

Add section 15:

"SEC. 15. This act shall take effect and be in force from and after its passage."

Respectfully submitted,

W. J. MCCORMICK, *Chairman.*

Also, the following section:

"The regular terms of the probate courts in the several counties of this Territory (Deer Lodge county excepted), shall be held at their respective county seats on the first Mondays of April, June, August, October, December and February in every year."

W. J. MCCORMICK,
Chairman Com. of the Whole.

Report received, and adopted.

On motion of Mr. Bagg, the bill was laid on the table for the present.

C. B. No. 52 was called up, and on motion of Mr. McCormick, the rule was suspended, and the bill was read first and second time by its title.

On motion of Mr. Bagg, twenty-one copies were ordered printed.

On motion of Mr. McCormick, the Council adjourned to 2 o'clock, P. M.

AFTERNOON SESSION.

Council met pursuant to adjournment. Mr. President in the chair.

Messrs. Leavitt and McCormick absent.

Mr. Bagg, chairman of Committee on Enrollment, reported Joint Memorials Nos. 1 and 2 correctly enrolled.

C. B. No. 46 was taken up, and, on motion of Mr. Spratt, the bill was laid on the table.

C. B. No. 45 was called up, and, on motion of Mr. McCormick, the report of the Committee of the Whole was laid on the table.

On motion of Mr. Spratt, the word "two" was stricken out, and the word "one" inserted.

On motion of Mr. McCormick, the bill was ordered engrossed, with amendments.

Mr. Phelps offered the following resolution:

Resolved, That from and after Monday next, the consideration of all acts or bills of a private nature be deferred until those of a general nature be disposed of.

Resolution adopted.

Mr. Spratt offered the following J. R. No. 5:

Resolved, By the Council, the House concurring, that a Committee of three, one from the Council and two from the House, be appointed to revise the revenue laws of this Territory, and to perfect as near as possible our revenue system, and that they be requested to report the result of their investigations to their respective Houses, and also such bills as, in their judgment, will remedy the defects in said laws.

Resolution adopted.

Mr. Spratt was appointed on said Committee on the part of the Council.

Also the following :

J. R. No. 6. *Resolved*, By the Council, the House concurring, that a Committee of three be appointed, one from the Council, and two from the House, to settle the accounts of the late Territorial Auditor and Treasurer, and that they have power to send for and compel the attendance of persons and papers.

Resolution read and adopted.

Mr. McCormick was appointed on such Committee on behalf of the Council.

By consent, Mr. Bagg introduced C. B. No. 53, "An Act to authorize B. F. Catlett to establish a ferry or bridge on the Missouri river."

Read first and second time, and referred to Committee on Incorporations.

C. B. No. 13 was called up, and, on motion of Mr. Spratt, fifty copies were ordered printed, with the amendments.

On motion of Mr. McCormick, C. B. No. 44 was taken from the table.

On motion of Mr. Spratt, the report of the Committee was laid on the table.

Mr. Spratt moved to amend C. B. No. 44 by striking out the word "two," and inserting the word "one," in section 2. Adopted.

Mr. McCormick also offered the following amendment to section 1st:

"*Provided*, That nothing in this act shall be so construed as to prohibit the Legislature of the Territory, at any session thereof, from modifying and regulating the rates of toll or transportation."

Mr. Spratt, chairman of Committee on Incorporations, reported C. B. No. 48 and C. B. No. 53 back to the Council, and recommend that they be considered in Committee of the Whole.

Report received, and adopted.

Mr. Spratt, chairman of the Committee on Incorporations, made the following report:

MR. PRESIDENT—Your Committee, to whom was referred C. B. No. 33, have had the same under consideration, and report the same back, with the following amendments:

Add to the end of section 6 the following—

"Nothing in this act shall be so construed as to impair the prior or vested rights of others to any quartz mine through which said tunnel may be constructed."

With this amendment, we recommend the passage of the bill.

JAMES G. SPRATT, *Chairman.*

On motion of Mr. Phelps, the Council went into Committee of the Whole on C. B. No. 48.

On motion of Mr. McCormick, the Committee arose.

Mr. Phelps, chairman of Committee of the Whole, asked for further time to report. Granted.

Mr. Bagg, by consent, introduced C. B. No. 54, "An Act to incorporate the Big Blackfoot and Fort Benton Wagon Road Company."

On motion of Mr. Bagg, the rules were suspended, and the bill was read first and second time.

Mr. Spratt moved to lay the bill on the table. Lost.

On motion of Mr. Bagg, the bill was referred to the Committee on Incorporations.

C. B. No. 9 was taken up, and Mr. Spratt moved to amend by striking out "the county commissioners of Edgerton county," and inserting, in lieu thereof, "the county commissioners of the county in which said ferry is located."

The remainder of the House amendments were then concurred in,

On motion of Mr. Spratt, the Council adjourned to 10 o'clock, A. M., on Monday morning.

A. S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

TWENTY-SECOND DAY.

MARCH 26, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—all the members in their seats.

Journal of Saturday read and approved.

Mr. McCormick was appointed as a Committee of one from the Council, to confer with the Committee of two from the House, to settle with the late Treasurer and Auditor of the Territory.

The following communication was received and read:

HOUSE OF REPRESENTATIVES,
Monday, March 26th, 1866.

To the President of the Council:

SIR—I am authorized to inform the Council that—

Mr. Weed gave notice to the House that he would introduce, at some future day, a bill entitled "An Act to incorporate the Madison Irrigation Company."

Mr. McCullough, pursuant to notice, introduced H. B. No. 36, "An Act to amend an act entitled a quartz mining law."

Also, by Mr. Mimms, H. B. No. 37, "An Act to invest religious societies with certain powers of bodies corporate." Read first and second time, rules were suspended, bill was read third time, and lost.

And, H. B. No. 23, "An Act to amend an act entitled an act to regulate proceedings in civil cases in courts of justice in the

Territory of Montana, approved 1865." Read third time, and the bill passed, and the title agreed to.

All of which is respectfully submitted,

JOHN F. RUCKER,
Chief Clerk.

Mr. McCormick, chairman of Committee on Engrossment, reported the following bills correctly engrossed:

C. B. No. 33, "An Act to incorporate the Gold Hill Mining and Tunneling Company."

C. B. No. 35, "An Act to incorporate the Sun River Bridge Company."

C. B. No. 36, "An Act to incorporate the Kercheval Town Association."

C. B. No. 39, "An Act to incorporate the Summit Gulch Company."

C. B. No. 45, "An Act to incorporate the Flat Head River Ferry Company."

Report received.

The following communications were read from the Governor:

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
Virginia City, March 26, 1866.

To the Hon. President of the Council:

SIR—I have the honor to inform your honorable body, that I have this day approved and signed House Bill No. 10, entitled "An Act to incorporate the Jefferson River Water Ditch Company."

I have the honor to be,
Very truly,
Your obt. servant,
THOMAS FRANCIS MEAGHER,
Acting Governor.

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
Virginia City, March 26, 1866.

To the Hon. President of the Council:

SIR—I have the honor to inform your honorable body, that I have this day approved and signed the following bills, to wit:

C. B. No. 18, entitled "An Act to authorize John S. Mead, E. H. Irwin, and E. C. Mason and their associates to construct and maintain a toll road."

And C. B. No. 10, entitled "An Act requiring clerks of district courts to give bonds."

I have the honor to be,

THOMAS FRANCIS MEAGHER,
Acting Governor.

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
Virginia City, March 26, 1866.

To the Hon. President of the Council:

SIR—I have the honor to inform your honorable body, that I have this day approved and signed House Bill No. 1, entitled "An Act to repeal an act to provide increased compensation to officers of this Territory."

I have the honor to be,
Very truly,
Your obt. servant,

THOMAS FRANCIS MEAGHER,
Acting Governor.

Mr. McCormick, chairman of the Select Committee on Credentials, reported the following:

MR. PRESIDENT—The Committee appointed to examine and report upon the claims of R. Lawrence to a seat in this Chamber, have had the same under consideration for a long time. They have examined the notice or application of the said Lawrence, in which he sets forth that he is entitled to a seat in the Council Chamber. The only evidence accompanying the notice or appli-

cation is the certificate of Sidney Edgerton, setting forth that on the 24th day of October, 1864, R. Lawrence was entitled by the qualified voters of Madison county as a member of the Territorial Council.

Your Committee would further report that, from the notice of the said Lawrence now in the hands of the Committee, they are unable to determine whether the said R. Lawrence is before the Council in the character of a contestant, or whether he claims a seat in this chamber on general principles, relying upon his certificate of election, without regard to the representation that the said county of Madison is entitled to under the proclamation of the Governor, issued on the first day of October, A. D. 1864. With this statement of facts, as authorized by the papers in the hands of the Committee, they ask to be discharged from further consideration of this case until a specific notice shall be filed with the Clerk of this House, in which the said Lawrence shall declare his right to the seat now occupied by James G. Spratt, Charles S. Bagg, or Anson S. Potter.

Until the filing of such notice, your Committee are of the opinion that the claim of no one to a seat upon this floor can be entertained by the House, and the Chief Clerk will notify said Lawrence of their report.

W. J. McCORMICK, *Chairman.*

Report received, and adopted.

Mr. Spratt, chairman of the Committee on Judiciary, made the following report on the memorial from the Mining Bureau of Montana:

MR. PRESIDENT—Your Committee, to whom was referred the memorial of the Quartz Bureau, recommending the repeal or modification of section 5 of "An Act relating to the discovery of gold and silver lodes or ledges, and of the manner of their location," approved December 26th, 1864, have had the same under consideration, and report the same back, and recommend that that part of section 5 of said act, relating to the restaking of claims once in every twelve months, and that the same be so amended that after the claims shall have been staked in compliance with the law, that no forfeiture shall result from the subsequent non-

staking, as mentioned in said act, or in case the said stakes be removed either by design or by accident. Your Committee further report that as said law now stands, it offers inducements to designing persons to remove or destroy the stakes for the purpose of jumping the claims, throwing doubts over the title of *bona fide* holders of claims. Your Committee would ask leave to bring in a bill to amend said law.

J. G. SPRATT, *Chairman.*

Report received, and adopted.

Mr. Bagg, without previous notice, introduced C. B. No. 55 "An Act creating certain officers in the Territory of Montana, providing for the manner of their election, declaring to whom resignations shall be made, when the office shall be declared vacant, and the manner of filling vacancies.

Read first and second time, and referred to Committee on Judiciary.

H. B. No. 23 was taken up, "An Act entitled an act to regulate proceedings in civil cases in the courts of justice of the Territory of Montana."

Read first and second time, and placed on file to be considered under general orders.

C. B. No. 33, "An Act to incorporate the Gold Hill Mining and Tunneling Company of Montana," was taken up, and put upon its third reading, and was passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Phelps, Spratt, and Mr. President—6.

Nays—None.

Mr. Merriman absent.

Mr. Bagg, by consent, introduced C. B. No. 56, "An Act to enable Road Ditch Manufacturing and other companies to become bodies corporate."

Rule suspended, and bill read first and second time by its title,

and made the special order for 2 o'clock, P. M., to be considered by the Committee of the Whole.

Moved by Mr. Spratt, that the Council adjourn to 2 o'clock, P. M. Lost.

C. B. No. 35, "An Act to incorporate the Sun River Bridge Company;" was taken up and put upon its third reading, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Phelps, Spratt, and Mr. President—6.

Nays—None.

Mr. Merriman absent.

On motion of Mr. McCormick, Council adjourned until 2 o'clock, P. M.

AFTERNOON SESSION.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—all members in their seats.

On motion of Mr. Bagg, Council went into Committee of the Whole, to consider C. B. No. 56.

Mr. Bagg in the chair.

On motion of Mr. Potter, the Committee of the Whole arose.

Mr. Bagg, chairman of Committee of the Whole, asked for further time to report. Granted.

C. B. No. 13, "An Act defining the jurisdiction and power of the probate courts of Montana Territory," read for information.

Mr. Bagg offered the following amendment to section 8: That the words "and learned in the law" be stricken out, which was lost by the following vote:

Yeas—Messrs. Bagg, Merriman, and Mr. President—3.
Nays—Messrs. Leavitt, McCormick, Phelps, and Spratt—4.

Mr. Spratt moved to amend by inserting section 10 between sections 5 and 6, which was carried.

On motion of Mr. Spratt, the words "and approved by the Governor" were striken from section 16.

The following amendment was, on motion of Mr. Phelps, adopted, and made part of section 13:

"*Provided*, That appeals shall be made from any rule, order or judgment made under the provisions of this section to the district courts."

On motion of Mr. McCormick, C. B. No. 13 was ordered to be engrossed.

Mr. Bagg, as chairman of the Committee of the Whole, made the following report on C. B. No. 56, which was read and adopted:

MR. PRESIDENT—The Chairman of the Committee of the Whole, who have had under consideration C. B. No. 56, beg leave to report the same back, with the following amendments:

First, in section 9 of said act, insert the words, in 5th line, "of the United States and."

In section 41 strike out the word "three," in the 3rd line, and insert "eleven," and at 5th line strike out the words "one hundred feet on all lodes discovered by others crossing the said tunnels, after the commencement of the same."

Add section as follows:

"SECTION —. That nothing in this act shall be so construed as to give the right of way to any wagon road, bridge or ferry company until such right of way shall have been obtained from the county commissioners of the county in which said company propose building or constructing said wagon road, bridge, or ferry."

CHARLES S. BAGG, *Chairman.*

On motion of Mr. McCormick, C. B. No. 54 was made the special order for 10 o'clock, A. M., to-morrow.

H. B. No. 11, "An Act regulating the terms of the probate court of Deer Lodge county, and fixing the places of holding the same," was taken up, and on motion of Mr. Phelps, section 1, ninth line, was so amended as to read, "in civil cases."

On motion of Mr. Bagg, twenty-five copies of the bill were ordered printed as amended, and the bill was read the third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.
Nays—None.

By consent, Mr. Merriman introduced C. B. No. 57, "An Act defining the duties of county surveyors."

On motion, the rule was suspended, and bill read first and second time by its title, and referred to Committee on Towns and Counties.

Mr. McCormick moved to adjourn. Lost.

H. B. No. 28, "An Act to amend an act entitled an act defining the boundary line of counties in Montana Territory," was, on on motion of Mr. Bagg, taken from the table, and put upon its third reading, and was passed by the following vote:

Yeas—Messrs. Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—6.
Nay—Mr. Bagg.

H. B. No. 3, "An Act incorporating the Helena Water Company," was, on motion of Mr. Merriman, taken from the table.

Mr. McCormick moved to reconsider the vote on H. B. No. 3, which was carried.

And on motion of Mr. Spratt, the bill was laid on the table.

Mr. Bagg moved to adjourn, which was lost.

On motion of Mr. McCormick, C. B. No. 36, "An Act to incorporate the Kercheval Town Company," was laid on the table.

On motion of Mr. McCormick, Council adjourned to 10 o'clock, A. M., to-morrow.

A. S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

TWENTY-THIRD DAY.

MARCH 27, 1866.

Council met at 10 o'clock, pursuant to adjournment. Mr. President in the chair.

Mr. Merriman absent.

The following communication was received from Hon. R. Lawrence:

To the Hon. President and Members of the Council of Montana Territory:

GENTLEMEN—In obedience to the requirements of your Committee, requesting that I would declare my rights to the seat now occupied by James G. Spratt, Charles S. Bagg, or Anson S. Potter, I can only say that my term of office, as appears by the territorial records of this Territory, is coeval with that of said Bagg and Potter. I am of the opinion that said Spratt is not entitled to a seat in this Council.

R. LAWRENCE.

Communication received, and referred to the Committee on Credentials.

On motion of Mr. Phelps, Mr. Bagg was added to Committee on Credentials.

The following communication was received from the House:

HOUSE OF REPRESENTATIVES,
Tuesday, March 27, 1866.

To the President of the Council:

SIR—I am instructed by the House to inform your honorable

body of the disposition of the following bills on the 26th of March, 1866.

C. B. No. 49, "An Act to amend an act entitled an act defining the boundary lines of counties in Montana Territory, passed at the last Legislature, and defining the lines of Madison county, in Montana Territory." Read third time, and passed, with title agreed to.

H. B. No. 7, "An Act authorizing Peel B. Anthony and others to establish a toll road from Helena to Ophir City." Read third time, and passed.

H. B. No. 15, "An Act to incorporate the Ten Mile and Last Chance Consolidated Water Ditch Company." Read third time, and passed.

C. B. No. 24, "An Act to incorporate the Great Beaver Head Wagon Road Company." Read third time, and passed.

Joint Resolution No. 5 read first and second time, rule suspended, read third time and passed; and in compliance with said resolution, Mr. Speaker appointed, as House Committee, Messrs. Maxwell and Parrott.

C. J. R. No 6 read first and second time, and on motion of Mr. Parrott, the rule was suspended, read third time, and was lost.

By consent, Mr. Maxwell introduced H. B. No. 38, "An Act to incorporate the Eldorado and Diamond City Wagon Road Company." Read first and second time, and laid on the table.

Mr. Mimms introduced H. B. No. 39, "An Act regulating the holding of elections in the Territory of Montana, approved January 7th, 1865." Read first and second time, and referred.

H. B. No. 18, "An Act to incorporate the Highland District Gulch Mining Company." Read third time, and lost.

Notice was given, by Mr. McCullough, that he would, on Wednesday, the 28th inst., introduce a Joint Resolution, endorsing President Johnson's veto of the Freedman's Bureau bill, and his restoration policy.

All of which is submitted.

Respectfully,

JOHN F. RUCKER, *Chief Clerk.*

Special order for 10 o'clock, C. B. No. 52, "An Act to increase the number of members of the Legislature of Montana Territory," was called up, and, on motion, the Council went into Committee of the Whole, to consider said bill.

On motion of Mr. Bagg, the Committee of the Whole arose.

On motion of Mr. Bagg, the Council adjourned to 2 o'clock, P. M.

Afternoon Session.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—all the members in their seats.

Mr. McCormick, chairman of the Committee on Engrossment, reported C. B. No. 13 and C. B. No. 56 correctly engrossed.

On motion of Mr. McCormick, C. B. No. 13, "An Act defining the jurisdiction and power of the probate courts of this Territory," was taken up, rule suspended, and read third time by its title, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—None.

The Council then went into Committee of the Whole, for the further consideration of C. B. No. 52.

Mr. Leavitt in the chair.

On motion of Mr. Bagg, the Committee arose.

Mr. Leavitt, chairman of the Committee of the Whole, asked for further time to report. Granted.

Mr. Phelps, chairman of the Committee of the Whole, made the following report on C. B. No. 25:

MR. PRESIDENT—Your Committee of the Whole have had under consideration C. B. No. 25 with substitute thereto, and report the same back to the Council, with a recommendation that the substitute be not adopted.

E. F. PHELPS, *Chairman.*

Report received, and adopted.

Mr. Phelps, chairman of the Committee of the Whole, made the following report:

MR. PRESIDENT—Your Committee of the Whole have had under consideration C. B. No. 48, and report progress thereon, and recommend further action upon the same.

E. F. PHELPS, *Chairman.*

Report received, and adopted.

Mr. Spratt, chairman of Committee upon Towns and Counties, made the following report:

MR. PRESIDENT—Your Committee, to whom was referred C. B. No. 57, "An Act defining the acts and duties of county surveyors, have had the same under consideration, and report the same back, with the recommendation that it be referred to the Committee of the Whole.

J. G. SPRATT,
Chairman Com. Towns and Counties.

Report received, and adopted.

By consent, Mr. Bagg introduced C. B. No. 58, "An Act concerning limited partnership," and on motion of Mr. Bagg, the rule was suspended, and the bill was read first and second time by its title, and referred to Committee on Judiciary.

Mr. McCormick, chairman of the Committee on Ways and Means, reported a substitute to C. B. No. 1, which was received and adopted.

Mr. Leavitt, chairman of the Committee of the Whole, reported the following, on C. B. No. 52:

MR. PRESIDENT—Your Committee of the Whole, to whom was referred C. B. No. 52, "An Act entitled an act to provide for an increase of the members of the Legislative Assembly of the Territory of Montana," have had the same under consideration and beg leave to report as follows:

Section 1, line 2, amend by inserting after the word "November," the words "at noon."

Section 2, line 2, strike out the words "six additional," and insert the word "thirteen." Also, words "thirteen additional," and substitute words "twenty-six."

The remaining sections of said act were adopted without amendment.

E. D. LEAVITT, *Chairman.*

Report received and adopted.

On motion of Mr. McCormick, C. B. No. 52 was ordered engrossed as amended.

On motion of Mr. McCormick, the Council went into Committee of the Whole, to consider C. B. No. 1, "An Act in relation to the Territorial Auditor and Treasurer of Montana Territory."

On motion of Mr. Bagg, the Committee of the Whole arose.

Mr. McCormick, chairman of the Committee of the Whole, asked for further time to report on C. B. No. 1.

Granted.

Mr. McCormick, chairman of the Committee on Engrossment, reported C. B. No. 52 correctly engrossed.

Mr. McCormick, chairman of the Committee on Education, to whom was referred H. B. No. 34, beg leave to report the same back to the Council without amendment, and recommend its passage.

W. J. MCCORMICK, *Chairman.*

Report received.

H. B. No. 34, "An Act to amend an act to establish a common school system for the Territory of Montana, approved Feb. 7, 1865," was called up, rule suspended, bill read third time by its title, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Phelps, Merriman, Spratt, and Mr. President—7.

Nays—None.

Mr. Spratt, chairman of the Committee on Judiciary, made the following report:

MR. PRESIDENT—Your Committee, to whom C. B. No. 55 was referred, have had the same under consideration, and recommend that said bill, "An Act concerning limited partnerships," be considered in Committee of the Whole, immediately.

J. G. SPRATT, *Chairman.*

On motion of Mr. Spratt, the Council went into Committee of the Whole, to consider Council Bill No. 58. Mr. Bagg in the chair.

On motion of Mr. Potter, the Committee arose.

Mr. Bagg, chairman of the Committee of the Whole, asked further time to report. Granted.

On motion of Mr. McCormick, C. B. No. 52 was taken up, read third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, and Phelps—5.

Nays—Mr. Spratt, and Mr. President—2.

The title of the bill being objected to, the following was, on motion of Mr. McCormick, agreed to as the title, to wit:

"An Act defining the Council and Representative districts of the Territory of Montana, and apportioning the members of the Legislative Assembly thereof."

Mr. Merriman, by consent, introduced C. B. No. 59, "An Act to enlarge the powers of county commissioners of the different counties of this Territory."

On motion of Mr. Bagg, the rules were suspended, the bill was read first and second time by its title, and referred to the Committee on Towns and Counties.

On motion of Mr. Bagg, C. B. No. 56 was taken up, and the rules suspended.

The bill was read third time by its title, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—None.

On motion of Mr. Bagg, the resolution in regard to private bills was rescinded.

Mr. Spratt, chairman of Committee on Incorporations, made the following report upon H. B. No. 5;

MR. PRESIDENT—Your Committee, to whom H. B. No. 5 was referred, entitled "An Act authorizing Solomon H. Miller and his associates, to build a bridge or keep a ferry on Jefferson river, have had the same under consideration, beg leave to report that no evidence has been furnished by the incorporation to this Committee, that said bridge is on a public highway, or that the same will be of any public utility, or will in any way benefit the traveling public.

Your Committee would further report, that the point at which said bridge is to be built is too indefinite; about five miles above the mouth of the junction of the Jefferson and Madison rivers, is a very indefinite term. Whether the miles are to be measured by the meanderings of the stream, or in a straight line, your committee are not advised.

Your Committee have been further advised, that said bridge interferes with the franchise granted by the First Session of the Legislature of Montana Territory, to the Rocky Mountain Missouri River Wagon Road and Telegraph Company, which franchise and liberties is a contract, within the terms and meaning of the constitution of the United States, and we as a Legislative Assembly have no right to pass any act or law that in any

respect impairs the obligation of this contract. That the granting of this charter would be, so far as it interferes with the previous charter, an act unconstitutional and void, and productive of much strife and unnecessary litigation.

All of which we report back with the bill to the House for its consideration.

J. G. SPRATT, *Chairman.*

Report received and adopted.

Mr. Spratt, chairman of the Committee on Incorporations, reported H. B. No. 21 back to the Council, and recommend that it be considered in Committee of the Whole.

Report received.

On motion of Mr. Bagg, the Council went into Committee of the Whole, to consider H. B. No. 21.

On motion of Mr. McCormick, the Committee of the Whole arose.

Mr. Bagg, chairman of the Committtee of the Whole, made the following report on H. B. No. 21:

MR. PRESIDENT—Your chairman of the Committee of the Whole, beg leave to report that they have had under consideration H. B. No. 21, and adopted the following amendments:

In section 2, in third line from the last, add the words "now discovered" after the word "miner." Also, in second line from the last, in same section, add the word "or," after "gulch."

On motion of Mr. McCormick, the Council adjourned to 10 o'clock, A. M., to-morrow.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

TWENTY-FOURTH DAY.

MARCH 28, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—all the members present.

Journal of previous day read and approved.

The following communication was received from the House:

HOUSE OF REPRESENTATIVES,
Wednesday, March 28, 1866.

To the President of the Council:

SIR—I am instructed to inform your honorable body that the House took action upon the following bills on Tuesday, the 27th inst., and the introduction of—

H. B. No. 40, "An Act supplementary to an act defining the duties of county treasurers, and the payment of county warrants."

H. B. No. 41, "An Act to incorporate the Madison Irrigation Water Ditch Company." Read first and second time, and laid on the table."

H. B. No. 42, "An Act to repeal an act in relation to trout fishing."

C. B. No. 35, "An Act to incorporate the Sun River Bridge Company." Read first and second time, and laid on the table.

C. B. No. 33, "An Act to incorporate the Gold Hill Mining and Tunneling Company." Read first and second time, and laid on the table.

Joint Resolution No. 3 read, and on motion of Mr. Weed, was laid on the table.

C. J. R. No. 7 read third time, and passed. Title agreed to.

C. B. No. 43, "An Act to incorporate the Montana Mutual Fire Insurance Company," read third time, and passed with the following amendments, to wit:

Strike out "J" and insert "F," in "A. J. Grater," and add the name of S. F. Dunlap to the list of incorporators. Title agreed to.

H. B. No. 39, "An Act amendatory of an act regulating the holding of elections in the Territory of Montana, approved January 17, 1865." Read third time and passed. Title agreed to.

H. B. No. 22, "An Act creating the office of assessors, and defining their duties." Rule suspended, bill read third time, and passed.

H. R. No. 6, read first and second time, and, on motion, the rules were suspended, resolution read third time, and passed.

H. B. No. 36, "An Act amendatory of the Quartz Mining Law." Read third time, and passed.

House concurred in the amendments offered by the Council to House amendments to C. B. No. 9, and herewith return the same to the Council.

All of which is respectfully submitted.

JOHN F. RUCKER,
Chief Clerk of House.

A petition was presented from citizens of Helena, which read as follows:

"A meeting of all the members of the Helena bar was held at the office of Messrs. Pemberton and Toole, on Saturday, March 24th, at which J. H. Shober presided, and C. Hayes was chosen Secretary. Messrs. Woolfolk, Poole and Chimiasero were appointed a committee on resolutions, and submitted the following, which were unanimously adopted:

Whereas, the Legislative Assembly of Montana Territory have seen proper to repeal the law giving additional compensation to the judge of the district court; and, whereas, the present salary which is paid to the judges by the Federal Government is totally

inadequate to compensate a lawyer of character and ability for discharging the onerous duties of the office; and, whereas, in consequence of the long-continued absence of the other judges, Hon. L. E. Munson has consented to perform, and has actually performed the labors of all, at great personal expense, and has devoted his entire time to the performance of his official duties; therefore, it is—

Resolved, By the members of the Helena bar, that, in their opinion, justice requires not only that Judge Munson should be reimbursed the additional expense incurred by him in discharging the duties of the absent judges, but, also, that a sum, at least equivalent to the additional compensation which has been repealed, should be appropriated for his benefit, to be paid in quarterly installments.

Resolved, That the Legislature be requested to pass a bill, making the necessary appropriation for the purposes aforesaid.

Resolved, That a copy of these resolutions be forwarded to the President of the Council and Speaker of the House of Representatives, and also furnished for publication in the newspapers of the Territory. J. H. SHOBER, *President.*

C. HAYES, *Secretary.*"

Received, and referred to Select Committee, consisting of Messrs. Spratt, Bagg, and Merriman.

Mr. Leavitt presented a petition from Messrs. Crawford and Horner, of Madison county. Referred to Committee on Incorporations.

Mr. Bagg, chairman of Committee on Enrollment, reported the following bills correctly enrolled, to wit:

C. B. No. 24, "An Act to incorporate the Great Beaver Head Wagon Road Company."

C. B. No. 49, "An Act to amend an act entitled an act defining the boundary lines of counties in Montana Territory, passed by the First Legislative Assembly, and defining the lines of Madison county in Montana Territory."

Also, C. J. R. No. 6.

Mr. Spratt, chairman of Committee on Incorporations, made the following report:

MR. PRESIDENT—Your Committee on Incorporations, to whom was referred C. B. No. 54, beg leave to report the same back to the Council, and recommend it be considered in Committee of the Whole.

Mr. Spratt, chairman of Committee on Towns and Counties, reported C. B. No. 59 back to the Council, and recommend it be considered in Committee of the Whole.

Mr. McCormick, chairman of the Committee of the Whole, made the following report:

MR. PRESIDENT—Your Committee of the Whole, to whom was referred C. B. No. 1, have had the same under consideration, and report the same back to the Council, and recommend that it pass, with the amendments.

Report received, and bill ordered engrossed, with the amendments.

Mr. Leavitt, by consent, introduced, without previous notice, C. B. No. 60, "An Act to amend an act concerning limitations."

Read first and second time, and referred to Committee on Incorporations.

Mr. Leavitt also introduced C. B. No. 61, "An Act to authorize Elijah Crawford and Wm. Honner to erect and maintain a toll road over Jefferson river, in Madison county."

Read first and second time, and, on motion of Mr. Leavitt, the rules were suspended, and the bill was read third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, Merriman, Phelps, and Spratt—5.
Nay—Mr. President.

Mr. McCormick was excused from voting.

The following communication was received from the House:

HOUSE OF REPRESENTATIVES,
March 28, 1866.

To the President of the Council:

SIR—I am instructed by the House to inform your honorable body of the introduction of Joint Resolution No. 8, by Mr. McCullough, which was read first and second time, rules suspended, resolution read third time, and passed, and, in accordance with said resolution, Mr. Speaker appointed as House Committee, Messrs. Parrott, Corry, and Hanna.

Respectfully,

JOHN F. RUCKER, *Chief Clerk.*

H. J. R. No. 8 was taken up, read and adopted.

On motion of Mr. Bagg, Messrs. Spratt and McCormick were appointed on said Committee.

On motion of Mr. Bagg, the Council went into Committee of the Whole, to consider Council Bills Nos. 51 and 59.

Mr. Bagg in the chair.

On motion of Mr. Potter, the Committee of the Whole arose.

Mr. Bagg, as chairman of Committee of the Whole, asked for further time to report. Granted.

H. B. No. 7, "An Act to authorize Paul B. Anthony, J. H. Shober and E. S. Rowland to establish a toll road from Helena to Ophir City."

Read first time, and rejected.

By consent, Mr. Spratt introduced C. B. No. 62, "An Act to incorporate the Montana and Pacific Wagon Road and Telegraph Company."

Read first time.

Mr. Phelps moved that the bill be rejected. Lost.

The bill was then read second time, and referred to Committee on Incorporations.

H. B. No. 15, "An Act to incorporate the Ten Mile and Last Chance Consolidated Ditch Company."

Read first time, and, on motion of Mr. Leavitt, the bill was laid on the table.

Mr. Bagg, chairman of Committee of the Whole, reported C. B. No 51 back to the Council, "An Act to authorize James Talbot and J. N. Rice to establish a ferry over the Missouri river, at or near the mouth of the Muscleshell river, opposite Kerchival City," which report was received and adopted.

On motion of Mr. Merriman, the bill was ordered engrossed, with amendments.

Mr. Spratt offered the following C. J. R. No. 7:

Resolved, By the Legislative Council of the Territory of Montana, the House concurring, That Andrew Leech and W. M. Stafford be, and the same are hereby appointed a commission to inquire into and settle the accounts of the late Territorial Treasurer and Territorial Auditor, and to report to the Legislative Assembly immediately, as follows:

First. What amount, and to whom territorial warrants have been issued.

Second. What amounts of warrants have been redeemed, what amount of money has been received, and what amount of each has been paid to the Territorial Treasurer. Also, what amount of balance certificates have been issued by the different county treasurers, and what amount of warrants have been paid over to the late Territorial Treasurer by the different county treasurers to redeem outstanding balance certificates, together with any other information touching the financial condition of the Territory.

Resolution received and adopted.

On motion of Mr. McCormick, the Council adjourned till 2 o'clock, P. M.

AFTERNOON SESSION.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Mr. Leavitt absent.

H. B. No. 22, "An Act creating the office of assessor, and defining their duties."

Read first and second time, and, upon motion of Mr. Spratt, the rule was suspended, and the bill was read third time by its title, and passed by the following vote:

Yeas—Messrs. Bagg, Merriman, Phelps, Spratt, and Mr. President—5.

Nays—None.

Messrs. McCormick and Leavitt absent.

H. B. No. 36, "An Act to amend an act entitled an act concerning the quartz mining law."

Read first time.

Mr. Bagg moved to reject. Lost.

Read second time, and referred to Committee on Mines and Minerals.

H. B. No. 39, "An Act amendatory of an act regulating the holding of elections in Montana Territory, approved February 17, 1865."

Read first and second time. Rule suspended. Bill read third time by its title, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—none.

H. J. R. No. 1 was taken up, and read first and second time, and, on motion of Mr. Merriman, the resolution was amended by striking out the first six lines of section 3rd.

On motion of Mr. Phelps, all that portion of the resolution relating to justices of the peace was stricken out.

Mr. McCormick moved to lay the resolution on the table. Lost.

On motion of Mr. Merriman, the rules were suspended, resolution was read third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, Merriman, Phelps, and Mr. President—5.

Nay—Mr. McCormick.

Mr. Spratt absent.

On motion of Mr. McCormick, the Council went into executive session, to consider Governor's communication.

Mr. Bagg, chairman of the Committee of the Whole, made the following report on C. B. No. 59:

Your Committee, to whom was referred C. B. No. 59, have adopted the following amendments:

At the end of section 1st insert the words "provided the holders of such warrants or orders present the same for cancellation."

Add at the end of section 2nd, the words "said interest to be paid annually by the county treasurers of the different counties out of any moneys in the hands of said treasurers."

In section 5, strike out the word "clerk," in 1st line; also, strike out the words "of the county," after the words "the treasurer," and insert the word "territorial," before the word "treasurers." Also, add, at the end of last line of said section, the words "of said board."

In section 6, after the word "commissioner," in 1st line, insert the words "or treasurer of this Territory"; and in 6th line, after the word "commissioner," insert the words "or treasurer they." In 8th line, after the words "such contract," insert the words

"and they shall be disqualified from holding office in this Territory."

All of which is respectfully submitted.

CHARLES S. BAGG,
Chairman Committee of the Whole.

On motion of Mr. Merriman, the title of the bill was stricken out, and the following title was substituted:

"An Act to authorize the several county commissioners of the several counties of this Territory to fund the debt of their respective counties."

The bill was then ordered engrossed, with amendments.

C. B. No. 43, "An Act to incorporate the Montana Mutual Fire Insurance Company." Amendments of the House read and concurred in.

C. B. No. 39, "An Act to incorporate the Summit Gulch Mining Company," was taken up, read third time, and put upon its final passage, and was lost by the following vote:

Yeas—none.

Nays—Messrs. Bagg, McCormick, Merriman, Phelps, Spratt, and Mr. President—6.

Mr. Leavitt absent.

Mr. Spratt called up C. B. No. 48, "An Act to incorporate the Fairweather District Bed Rock Fluming and Mining Company."

On motion of Mr. Potter, the Council went into Committee of the Whole, to consider C. B. No. 48.

On motion of Mr. Potter, the Committee arose.

Mr. Merriman, chairman of the Committee of the Whole, asked for further time to report. Granted.

C. B. No. 45, "An Act to incorporate the Flat Head River Ferry Company." The bill was read the third time, and passed by the following vote, to wit:

Yeas—Messrs. Bagg, Leavitt, McCormick, and Merriman—4.
Nays—Mr. Spratt, and Mr. President—2.

Mr. Phelps absent.

On motion of Mr. Spratt, C. B. No. 25 was taken up, "An Act to repeal an act in relation to lost goods and estrays."

On motion of Mr. Bagg, the bill was laid on the table.

Mr. McCormick, chairman of the Committee of the Whole, made the following report:

The Committee of the Whole, to whom was referred C. B. No. 54, "An Act to incorporate the Big Blackfoot and Fort Benton Wagon Road Company," beg leave to report the same back to the Council, with the following amendment:

Strike out the word "fifty," after the words "Pack animals per head," and insert "twenty-five" in lieu thereof, in section 3.

Report received, and, on motion of Mr. Leavitt, the bill was laid on the table.

On motion of Mr. Spratt, C. B. No. 50, "An Act to incorporate the Capital Town Company," was taken up, and, on motion of Mr. McCormick, the Council went into Committee of the Whole, to consider said bill.

Mr. McCormick in the chair.

On motion of Mr. Bagg, the Committee arose.

Mr. McCormick, chairman of the Commitee of the Whole, made the following report:

Your Committee, to whom was referred C. B. No. 50, beg leave to report the same back to the Council, and recommend that it do not pass.

Report received, and bill and report were laid on the table.

On motion of Mr. Merriman, the Council adjourned until 10 o'clock, A. M., to-morrow.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

TWENTY-FIFTH DAY.

MARCH 29, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Mr. Phelps absent.

Journal of previous day read and approved.

The following communication was received:

HOUSE OF REPRESENTATIVES,
Thursday, March 29, 1866.

To the President of the Council:

SIR—I am instructed by the House to inform your honorable body of the action taken on the following bills; and notice given by Mr. Smith of the introduction, on Thursday, the 29th instant, of a "Joint Resolution indorsing His Excellency Thomas Francis Meagher for the manly and honorable course taken by him in behalf of the people of this Territory."

The following bills and resolutions introduced:

By consent, Mr. McCullough introduced H. B. No. 43, "An Act to authorize W. P. Baker to establish a ferry on the Missouri river, in Gallatin county. Read first and second time, and laid on the table.

J. R. No. 9, "Indorsing President Johnson," etc. Read first and second time, and referred.

H. J. R. No. 10, "Respecting county commissioners." Read first and second time, rule suspended, and resolution passed.

On motion of Mr. Maxwell, the House concurred in Council amendments to House amendments of C. B. No. 9, passed March, 1866.

On motion of Mr. McCullough, Council is requested to appoint a Committee to confer with Messrs. McCullough, Parrott, and Mimms, on part of the House, on H. B. No. 6, "An Act creating the county of Vivian."

C. B. No. 52, "An Act to provide for the increase of the members of the Legislative Assembly of the Territory of Montana." Read first and second time, rules suspended, read third time, and passed, without amendment, March 28, 1866. Title agreed to.

All of which is respectfully submitted.

JNO. F. RUCKER,
Chief Clerk of House.

Mr. McCormick, chairman of the Committee on Credentials, reported the following:

MR. PRESIDENT—The Committee on Credentials, to whom was referred the matter of R. Lawrence claiming a seat in the Council from Madison county, beg leave to make the following report:

That they have had the same under consideration, and have given the subject that careful attention that its interest and importance demand, and after full investigation of the whole subject, find the following facts to exist, to wit:

1st. That the said R. Lawrence was elected a member of the Council of the Legislative Assembly of the Territory of Montana, from the county of Madison, on the 24th day of October, 1864, as appears from the certificate of Sidney Edgerton, Governor, now in the possession of the Committee.

2nd. That the said Lawrence left the county of Madison (for which he was elected) about the 1st of June, 1865, removing to the county of Edgerton in said Territory, where he has since resided up to the 5th of March, 1866.

3rd. That said Lawrence was appointed and commissioned treasurer of the county of Edgerton by the Governor of the Territory, and that the said Lawrence accepted said office and

performed the duties thereof, from some time in June, 1865, up to the 1st of November of the same year.

4th. That the said Lawrence was a candidate for the office of probate judge of Edgerton county, at the general election held on the 4th day of September, 1865, and received for said office, four hundred and forty-one votes, as shown by the abstract of said county furnished to this House by the Acting Governor of the Territory.

The Committee further find, that the Acting Governor issued his proclamation on the first day of February, 1866, calling for an election in the counties of Madison and Beaver Head to fill vacancies in the Council and House of Representatives, and that in pursuance of said proclamation, an election was held under the direction and notice of the clerk of Madison county on the 24th day of February, A. D. 1866, to fill one vacancy in the Council caused by the removal of R. Lawrence from the county, and one vacancy in the House caused by the removal of Wm. Gardner from the Territory; and at said election, James G. Spratt was elected to fill said vacancy in the Council, as appears from the certificate now in the hands of the Committee.

The Committee further find, that in a communication sent to this House on the fifth day of March, by the Acting Governor of the Territory, the names of Charles S. Bagg, Anson S. Potter and James G. Spratt, appear as members of the Council from the county of Madison.

The Committee, in reporting on the above state of facts, find it necessary to examine the law under which vacancies may be created in the Council and House of Representatives as well as other county and district offices.

Section 4 of the Organic Act, provides that members of the Council shall hold their office for the term of two years, and shall reside in and be inhabitant of the county for which they may be elected. This section of the Organic Act, in the opinion of the Committee, is not simply directory, but peremptory in its letter and spirit, and that while nothing in the Organic Act of the Territory in relation to members of the Council and House of Representatives under which vacancies in either branch can be found, yet the Committee are clearly of opinion, that a strict and fair construction of the language of said section will justify

the opinion, that when any member of the Council or House of Representatives ceases to be a resident of the county for which he may have been elected, a vacancy is thereby created. But the Committee, in determining the question, are not left to the vague and indefinite language of the Organic Act.

The section of an act relating to elections, passed by the First Legislative Assembly of the Territory of Montana, provides, "That every office shall become vacant on the happening of any of the following events before the expiration of the term of such office:

"First, the death of the incumbent. Second, his resignation. Third, his removal. Fourth, his ceasing to be an inhabitant of the Territory, county, or township for which he shall have been elected or appointed."

This section of the law relative to elections, in the opinion of the Committee, is alike applicable to any persons holding office, whether in any district, county or township of the Territory, whether appointed or elected, whatever may be the character of the office, representative, ministerial, judicial, or judiciary.

Your Committee, therefore, are irresistibly drawn to the conclusion, from a full and thorough examination of the facts, and a close investigation of the law applicable to the case under consideration, that a vacancy was created in the Legislative Council by the said R. Lawrence ceasing to be an inhabitant of the county of Madison.

Your Committee would therefore report, that said R. Lawrence is not entitled to a seat in this body.

W. J. McCORMICK, *Chairman.*

Report received, and adopted.

Mr. Spratt offered the following resolution:

Resolved, That the thanks of this Council be tendered to Capt. W. W. De Lacy, county surveyor of Madison county, for the use of the map made by him of Montana Territory, which is acknowledged by all to be the only correct and accurate map yet made of our young and flourishing Territory, and that he be requested to publish the same at his earliest convenience, for the better information of our own people, as well as to extend and diffuse

useful knowledge to thousands now on their way to the gold fields of Montana.

Resolution was adopted, and the clerk was instructed to inform W. W. De Lacy of the action of the Council.

A communication from the House, informing the Council that a Committee of three had been appointed by the House, to confer with a Committee of two from the Council, in regard to an act organizing the county of Vivian.

Mr. Bagg moved that the Council do not appoint a Committee to confer with the House Committee on said bill. Carried.

H. J. R. No. 8, was read first time, and on motion of Mr. Spratt, the resolution was indefinitely postponed.

H. B. No. 5, "An Act to authorize J. H. Miller to erect and maintain a ferry over Jefferson river."

Read for information, and was then put upon its final passage, and lost by the following vote:

Yea—Mr. Merriman.

Nays—Messrs. Bagg, Leavitt, McCormick, Phelps, Spratt, and Mr. President—6.

Mr. Bagg, chairman of Special Committee, to whom was referred the petition of the Helena City bar, made a report.

On motion of Mr. Spratt, the report was referred to Mr. Bagg.

H. B. No. 25, "An Act to authorize J. M. Wood and John Storm to establish a ferry on the Missouri river."

Read for information, and placed on file, to be considered under general orders.

H. B. No. 32, "An Act defining the duties of Territorial Auditors and Treasurers of Montana Territory."

On motion of Mr. Spratt, the bill was indefinitely postponed.

On motion of Mr. McCormick, the vote on the passage of H. B. No. 7 was reconsidered.

On motion of Mr. McCormick, the chief clerk was instructed to procure H. B. No. 7 from the House.

Mr. McCormick, chairman of the Committee on Engrossment, reported C. B. No. 1 and C. B. No. 59 correctly engrossed.

On motion of Mr. McCormick, C. B. No. 1 was taken up, the rule suspended, and the bill was put upon its final passage, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Spratt, and Mr. President—6.

Mr. Phelps absent.

C. B. No. 51, "An Act to authorize James Talbot and J. N. Rice to establish a ferry over the Missouri river at or near the mouth of the Muscle Shell river opposite Kerchival City."

Read third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Spratt, and Mr. President—6.

Mr. Phelps absent.

C. B. No. 59, "An Act to authorize the several county commissioners of the several counties of this Territory to fund the debt of their respective counties."

Rule suspended, bill read third time by its title, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Spratt, and Mr. President—6.

Nays—None.

Mr. Phelps absent.

Mr. McCormick, chairman of Committee on Engrossment, reported C. B. No. 54 correctly engrossed.

On motion of Mr. Leavitt, the rule was suspended, and C. B. No. 54, "An Act to incorporate the Big Blackfoot and Fort Benton Wagon Road Company," was called up and passed to its third reading, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, Merriman, and Phelps—4.
Nays—Messrs. McCormick, Spratt, and Mr. President—3.

On motion of Mr. McCormick, H. B. No. 31 was taken up, and placed on file, to be considered in Committee of the Whole.

Mr. Bagg, chairman of Committee on Mines and Minerals, made a report on H. B. No. 36 as follows:

Your Committee on Mines and Minerals, to whom was referred H. B. No. 36, report the same back and recommend the following amendments:

Section 1. That after the word "recorder," and before the words "that the claimant of," section six, of the quartz mining law of this Territory, insert the words "or any other officer of this Territory who is authorized by law to administer an oath." Also, in same section, after the words "or mineral extracted, or taken from said lead, lode or ledge," insert the words "and shall make oath before the recorder or any other officer of this Territory who is authorized to administer an oath," and before the words in said section, "which said specimen, that is, the specimen of quartz ore, was extracted from said lead, lode, or ledge, and that he has complied with each and every provision of the said quartz law."

CHARLES S. BAGG,
Chairman of the Com. of the Whole.

Report received, and bill placed on file.

Mr. Leavitt offered the following resolution:

Resolved, by the Council of the Legislative Assembly of the Territory of Montana, That the Council will not, during the present session, entertain any more private bills originating in the Council upon their first reading; and further resolved, that all House bills of a private nature upon their first reading, and Council Bills of a private nature upon their third reading, shall not be entertained before the 3rd day of April next, 10 o'clock, A. M.

Resolved, That this resolution shall be in force on and after 10 o'clock, A. M., March 30.

Resolution lost.

On motion of Mr. McCormick, the Council adjourned until 2 o'clock, P. M.

AFTERNOON SESSION.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Messrs. Leavitt, Merriman, and Phelps, absent.

Mr. Bagg, chairman of Special Committee, made the following report:

Your Special Committee, to whom was referred a communication of the Helena bar, asking extra compensation for L. E. Munson, Judge of the Third Judicial Circuit, find that said judge is not entitled to any extra compensation.

CHAS. S. BAGG, *Chairman of Committee.*

Report received and adopted.

On motion of Mr. Bagg, the Council went into Committee of the Whole, to consider Council Bills Nos. 57 and 58, and House Bills Nos. 25 and 31.

Mr. Bagg in the chair.

On motion of Mr. McCormick, the Committee arose.

Mr. Bagg, chairman of the Committee of the Whole, was granted further time to report.

H. B. No. 23 was made the special order for night session.

The following communication was received from the Governor:

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
VIRGINIA CITY, March 29, 1866.

To the President of the Council:

SIR—I have the honor to inform the Council that I have this day approved and signed an act regulating the terms of the probate court of the county of Deer Lodge, and fixing the places of holding the same."

This act gives considerable power and jurisdiction to the probate judge of the said county. I am right glad of it. I am decidedly in favor of extending and augmenting the authority of the magistrates elected by the people, and am satisfied that the more influential and powerful you render those magistrates, the better description of men shall we get to aspire to be such.

I have the honor to be,
Very truly, your obedient servant,
THOMAS FRANCIS MEAGHER,
Acting Governor.

Also, the following:

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
VIRGINIA CITY, March 29, 1866.

To the President of the Council:

SIR—I have the honor to inform your honorable body that I have this day approved and signed C. B. No. 49, entitled "An Act to amend an act defining the boundary lines of counties in Montana Territory, and defining the boundary lines of Madison county."

I have the honor to be,
Very truly, your obedient servant,
THOMAS FRANCIS MEAGHER,
Acting Governor.

Mr. Merriman, chairman of the Committee of the Whole, made the following report:

MR. PRESIDENT—As chairman of the Committee of the Whole, I beg leave to report that after having had under consideration C. B.

No. 48, "An Act to incorporate the Fairweather District Bed Rock Fluming and Mining Company," herewith return the same, with the recommendation that it do not pass.

N. MERRIMAN, *Chairman.*

Mr. Spratt, chairman of the Committee on Incorporations, reported C. B. No. 62, "An Act to create the Montana and Pacific Wagon Road and Telegraph Company," back to the Council, and recommend it be considered in Committee of the Whole.

Mr. Spratt, chairman of the Committee on Judiciary, reported C. B. No. 60, "An Act to amend an act concerning limitations."

C. J. R. No. 7 was taken up, and on motion of Mr. Merriman, House amendments were concurred in.

On motion of Mr. Merriman, the Chief Clerk was instructed to inform Messrs. Leach and Stafford of their appointment.

Mr. Spratt offered the following resolution:

Resolved, That A. H. Barrett be allowed pay as Assistant Clerk of the Council, for fifteen days previous to the repeal of the extra compensation act.

On motion of Mr. Bagg, the resolution was laid on the table.

Mr. Bagg, chairman of the Committee of the Whole, reported C. B. No. 58 back to the Council, "An Act concerning limited partnership," which was adopted, and the bill was ordered to be engrossed.

Mr. Bagg, chairman of the Committee on Enrollment, reported C. B. No. 52, C. B. No. 43, and J. R. No. 7, correctly enrolled.

On motion of Mr. McCormick, Council adjourned to 7 o'clock, this P. M.

NIGHT SESSION.

Council met pursuant to adjournment. Mr. President in the chair.

Messrs. Leavitt, Merriman, and Phelps, absent.

Mr. Bagg moved a call of the House, and the Sergeant-at-Arms was instructed to call the absent members.

On motion of Mr. Bagg, the call of the House was suspended.

Mr. Bagg, chairman of the Committee of the Whole, made the following report:

MR. PRESIDENT—Your chairman of the Committee of the Whole, who have had under consideration H. B. No. 31, "To establish a ferry over the Missouri river," would report the same back to the Council with the following amendments, which were adopted:

Section 1, in 14th line, strike out "two miles," and insert "four rods."

Strike out "instrument," in 16th line, and insert "act."

In section 2, strike out "two" before "dollars," in first paragraph, and insert "one."

Last paragraph to section 2 stricken out.

In section 3, strike out "sixty-eight," and insert, in lieu thereof, "sixty-seven."

Same section, 5th line, insert after "petition" the words "twenty-five citizens of the county. Nothing in this act shall be so construed as to prohibit any person from establishing a free ferry or bridge within the limits of this franchise, and that the next or any subsequent Legislature shall have the right or power to repeal, alter or modify this act."

CHAS. S. BAGG, *Chairman.*

Mr. Bagg, chairman of the Committee of the Whole, reported the following:

MR. PRESIDENT—Your chairman of the Committee of the Whole, who have had under consideration H. B. No. 25, beg leave to report the same back and recommend the adoption of the following amendments:

Strike out "Co.," wherever it occurs.

Strike out, in 8th line, the words "four miles," and insert "four rods."

"SECTION 8. That nothing in this act shall be so construed as to prohibit any person from establishing and running a free ferry within the limits of this franchise."

CHAS. S. BAGG, *Chairman.*

Report received, and bill ordered engrossed.

Mr. Bagg, chairman of the Committee of the Whole, made the following report on C. B. No. 57:

MR. PRESIDENT—Your chairman of the Committee of the Whole, would report that they have had C. B. No. 57 under consideration, "An Act defining the duties of the Surveyors of the various counties of this Territory," and have adopted the following amendments:

In section 3, strike out, in 5th line, words "whose duty," and insert, in lieu thereof, the words "their duties."

Strike out, in section 4, the first, second, third, fourth, fifth, and part of the 6th line, down to the words "no survey."

Also, section 4, after the words "proper court," in next to last line, insert words "or judges in vacation."

In section 5, insert, after word "court," in 4th line, words "or judge in vacation."

In section 7, insert, after "court," in 4th line, the words "or judge in vacation."

Section 12, strike out "exceeding three hundred," and insert, in lieu thereof, "less than one hundred, nor more than one thousand."

In section 13, strike out the words "and approval by the Governor."

CHAS. S. BAGG,
Chairman of Committee of the Whole.

Report received and adopted, and bill ordered engrossed.

Mr. Spratt, chairman of the Committee on Judiciary, to whom was referred C. B. No. 25, reported the same back to the Council, with a substitute; and, on motion of Mr. Potter, the substitute was adopted.

On motion of Mr. Bagg, the substitute was taken up and amended, by sections.

Amend section 10. In first line, strike out the words "set up," and insert the word "post," and after the word "the," in 2nd line, strike out all to the word "in," in the 3rd line, and insert the words "notice required."

Also, strike out the words "the preceding section," in 3rd and 4th lines, and insert "section 8."

Amend section 11 by striking out the word "court," in 1st line.

Amend section 12 by striking out the word "and," in 1st line.

Amend section 13 by striking out the word "court," in 3rd line.

Amend section 14 by striking out the word "court," in last line.

Amend section 17 by striking out all of it, and insert, in lieu thereof, the following: "The Auditor shall contract with some printer for the publication of each estray, at some price not exceeding three dollars and fifty cents for each estray notice."

Amend section 19 by striking out the words "received by him," in last line, and insert the words "due said printer, received by him."

Amend by striking out all of section 20.

Amend section 21 by striking out the words "with the increase, if any."

Amend section 23 by striking out the words "clerk of the county court," in 3rd line, and insert the following: "The justice of the peace of the township where said estray has been

taken up." And in the 4th line, strike out the word "sheriff," and insert the words "sheriff, or any constable of the township."

And bill was ordered to be engrossed as amended.

On motion of Mr. Bagg, the Council adjourned to 10 o'clock, A. M., to-morrow.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

TWENTY-SIXTH DAY.

MARCH 30, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—all the members in their seats.

Journal of previous day read and approved.

The following communication was received from the House:

HOUSE OF REPRESENTATIVES,
Friday, March 30, 1866.

To the Hon. President of the Council:

SIR—I have the honor to inform your honorable body of the following bills that passed the House Thursday, March 29th, 1866:

C. B. No. 61, "An Act to authorize Elijah Crawford and Wm. Homer to construct a toll road over the Jefferson," and title agreed to.

H. B. No. 33, "An Act to incorporate the Gold Hill Mining and Tunneling Company." Title agreed to.

C. J. R. No. 4 passed, with the following amendments: After the word "Clerk," in line ten, add the words "Assistant Clerk, Engrossing and Enrolling Clerk, and Sergeant-at-Arms with one copy each of all the acts and the general laws and journals of both Houses of said Legislature." The bill, as engrossed, I herewith enclose.

H. J. R. No. 6. The House refused to concur in the Council amendments, and ask respectfully that the Council recede from their amendments.

The following bills were introduced on the 29th of March, 1866:

H. B. No. 43, "An Act to define the duties of Superintendents of Public Instruction, and fixing their salaries."

Also, H. B. No. 45, "An Act to repeal an act concerning lost goods and estrays."

All of which is respectfully submitted.

JOHN F. RUCKER,
Chief Clerk of House.

Mr. McCormick presented a printed communication, and, on motion, it was referred to Committee on Mines and Minerals.

Mr. Spratt, chairman of the Committee on Judiciary, to whom was referred C. B. No. 55, report the same back, and recommend it be considered in Committee of the Whole.

Report received and adopted.

On motion of Mr. Leavitt, the consideration of bills of a private nature was dispensed with for this morning.

The report of Mr. Bagg, chairman of the Committee on Mines and Minerals, on H. B. No. 36, "An Act concerning the quartz law," was, on motion of Mr. Spratt, taken up, and the report was rejected.

The Engrossing Clerk was instructed to strike out the word "Secretary," wherever it occurs, and insert "Auditor," in C. B. No. 25.

On motion of Mr. Spratt, the Council went into Committee of the Whole, to consider H. B. No. 36.

Mr. Phelps in the chair.

Mr. Bagg moved that the Committee do now rise, and report progress.

Mr. Phelps asked for further time to report. Granted.

Communication was received from the House, requesting the Council to meet the House in joint session, at 4 o'clock, P. M. Communication adopted.

Mr. McCormick, chairman of the Committee on Engrossment, reported C. B. No. 58 and C. B. No. 9 correctly engrossed.

On motion of Mr. Merriman, C. B. No. 57, "An Act defining the duties of county surveyors," was taken up, rule suspended, and the bill was read third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—none.

C. B. No. 58, "An Act concerning limited partnerships," was taken up, and, on motion of Mr. Merriman, the rules were suspended, and the bill was read third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, Merriman, Phelps, and Mr. President—5.

Nays—Messrs. McCormick, and Spratt—2.

On motion of Mr. Bagg, H. J. R. No. 11 was taken up, read, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, and Phelps—5.

Nays—Messrs. Spratt, and Mr. President—2.

The following communication was received from the Governor:

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
VIRGINIA CITY, March 30th, 1866.

To the President of the Council:

SIR—I have given the "Act to incorporate the Great Beaver Head Wagon Road Company" the fullest and most conscientious consideration.

It shall have my heartiest approval provided that the said road terminates on the south at the junction of the Bannack City and Virginia City roads to Salt Lake City; that it be limited to a quarter of a mile in width; that it shall not interfere with any free road already established; that there shall be one toll gate only established on it, and that at the mouth of Beaver Head canon, at which gate the whole toll for traveling the entire length of the road shall be collected, at the following rates:

For each vehicle drawn by one pair of animals, $2.00.

And the other rates the same as are mentioned in the bill.

I respectfully suggest these alterations, as I earnestly desire to have the existing monopoly of the Parsons road effectually neutralized, and the most liberal inducements and facilities compatible with a good road thrown open to the public.

And with the hope that the bill may be so amended I have the honor to return it, solely with that view. As the bill stands at present it does not appear to me to combat the monopoly in question.

I have the honor to be,

Your ob't servant,

THOMAS FRANCIS MEAGHER,

Acting Governor.

On motion of Mr. Bagg, the communication from the Governor in regard to C. B. No. 24 was made the special order for 10 o'clock to-morrow.

Mr. Phelps, chairman of the Committee of the Whole, made a report on H. B. No. 36, "An Act to amend an act entitled an act on quartz mining law."

Report read, and adopted, and bill ordered engrossed.

On motion of Mr. McCormick, the following resolution was adopted:

Resolved, By the Council, the House concurring, that the Secretary of the Territory be requested to have printed two hundred and fifty copies of all the laws of a general character passed at the present session of the Legislature, and that he cause the same to be equally distributed among the officers of the several counties of the Territory, as soon thereafter as practicable.

AFTERNOON SESSION.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Mr. Phelps absent.

On motion of Mr. Spratt, the vote upon which H. B. No. 5, "An Act to authorize S. H. Miller and his associates to build a bridge or keep a ferry on the Jefferson river," was lost upon its third reading, was reconsidered, and bill placed on file for further consideration.

On motion of Mr. Bagg, the Council went into Committee of the Whole, to consider C. B. No. 55, "An Act creating certain offices in the Territory of Montana, and declaring to whom resignations shall be made, when offices shall be deemed vacant, and the manner of filling vacancies."

Mr. Bagg in the chair.

On motion of Mr. Phelps, the Committee arose.

Mr. Bagg, chairman of the Committee, was granted further time to report.

Mr. Spratt moved to take up C. B. No. 47, "An Act relating to county officers." Which was lost.

On motion of Mr. Spratt, the Council went into Committee of the Whole, to consider H. B. No. 23, "An Act to amend an act to regulate the proceedings in civil cases in the courts of justice of the Territory of Montana."

Mr. Merriman in the chair.

On motion of Mr. Bagg, the Committee arose.

Mr. Spratt offered the following C. J. R. No. 9:

Resolved, By the Council, the House concurring, that the Hon. R. Lawrence be allowed the per diem allowed to a member of the Council from the commencement of the present session of the Legislature until the day on which his case was decided as contestant to the seat of the Hon. Jas. G. Spratt, now member of the Council from Madison county, and that the President of the Council shall certify to said time, and the Secretary of the Territory be requested, on presentation of such certificate, to pay the per diem compensation as in case of members of the Council, and that the Auditor of the Territory be authorized and instructed to pay the extra compensation "per diem," according to said certificate as in other cases.

On motion of Mr. Bagg, the resolution was laid on the table for the present.

Mr. Bagg, chairman of the Committee of the Whole, reported C. B. No. 55 back to the Council, with amendments.

Report received, and bill ordered to be engrossed with amendments.

Mr. Bagg, chairman of Committee on Enrollment, reported C. B. No. 33 and C. B. No. 61 correctly enrolled.

Under previous special order, Council adjourned at 4 o'clock, P. M., to meet the House in joint session.

The Council returned to its chamber at 5½ o'clock, P. M. Mr. President in the chair.

Roll called—All the members in their seats.

On motion of Mr. Phelps, the vote was reconsidered in regard to the making of Governor's communication on C. B. No. 24 special order of to-morrow, at 10 o'clock, by the following vote:

Yeas—Messrs. Bagg, Leavitt, Phelps, and Spratt—4.
Nays—Messrs. McCormick, Merriman, and Mr. President—3.

Mr. Leavitt moved that C. B. No. 24 do now pass.

Mr. Bagg moved the previous question—Shall the bill pass, notwithstanding the objections of the Governor? and the bill passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, Phelps, Merriman, and Spratt—5.
Nays—Messrs. McCormick, and Mr. President—2.

Mr. Merriman gave notice that he would, on to-morrow, make a motion to reconsider the vote.

Mr. Bagg moved to reconsider now. Carried.

Mr. Bagg moved that the motion to reconsider be laid on the table. Carried.

On motion of Mr. Bagg, the Council adjourned to 10 o'clock, A. M., to-morrow.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

TWENTY-SEVENTH DAY.

MARCH 31, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—all the members in their seats.

Journal of previous day read and approved.

The following communication was received from the House:

HOUSE OF REPRESENTATIVES,
Friday, March 30, 1866.

To the President of the Council:

SIR—I have the honor to inform your honorable body that the following bills have passed the House:

A notice of "An Act creating a fund for the benefit of common schools," and the introduction of H. B. No. 46, "An Act relating to the Legislative Assembly."

JOHN F. RUCKER, *Chief Clerk.*

The following communications were received from the Governor:

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
VIRGINIA CITY, March 31, 1866.

To the President of the Council:

SIR—I have the honor herewith to inform your honorable body, that I have this day approved and signed the following bills, viz.:

C. B. No. 43, entitled "An Act to incorporate the Montana Mutual Fire Insurance Company."

C. B. No. 52, entitled "An Act defining the Council and

Representative districts of the Territory of Montana, and apportioning the members of the Legislative Assembly thereof."

H. B. No. 28, entitled "An Act to amend an act entitled an act defining the boundary lines of counties in Montana Territory."

H. B. No. 39, entitled "An Act amendatory of an act regulating the holding of elections in Montana Territory."

I have the honor to be

Your ob't servant,

THOMAS FRANCIS MEAGHER,

Acting Governor.

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
VIRGINIA CITY, March 31, 1866.

To the President of the Council:

SIR—I have the honor to inform the Council, that I have this day appointed Mr. Thomas J. Favorite, editor and proprietor of the "Montana Radiator," published at Helena, public printer for this Territory.

I have the honor to be

Your ob't servant,

THOMAS FRANCIS MEAGHER,

Acting Governor.

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
VIRGINIA CITY, March 31, 1866.

To the President of the Council:

SIR—I have the honor to inform your honorable body, that I have this day approved and signed H. B. No. 34, entitled "An Act to amend an act entitled an act to establish a common school system for the Territory of Montana."

I have the honor to be

Your ob't servant,

THOMAS FRANCIS MEAGHER,

Acting Governor.

Mr. Leavitt offered the following resolution:

Resolved, That the Council do not hereafter entertain any private bills until every bill of a public and general nature, originating either in Council or House, is disposed of by parliamentary usage.

Which was lost.

Mr. McCormick moved to reconsider the resolution which was offered by Mr. Leavitt.

Yeas—Messrs. Leavitt and Merriman—2.
Nays—Messrs. Bagg, McCormick, Phelps, Spratt, and Mr. President—5.
Lost.

H. J. R. No. 9 was taken up, "Asking Congress to amend the Organic Act of the Territory of Montana."

On motion of Mr. Bagg, the question as to receding from their amendments was divided.

And upon the question being stated—"Will the Council recede from their amendment to 3rd section of said resolution?" the amendment was receded from.

And upon the question being stated—"Will the Council recede from their amendment relating to justices of the peace?" the yeas and nays called, resulted as follows:
Yeas—Messrs. McCormick, and Mr. President—2.
Nays—Messrs. Bagg, Leavitt, Merriman, Phelps, and Spratt —5.

And the amendment was not receded from.

On motion of Mr. Bagg, the Council went into Committee of the Whole, for the consideration of H. B. No. 23. Mr. Merriman in the chair.

On motion of Mr. Bagg, the Committee arose.

Mr. Merriman was granted time to report.

Mr. Bagg, chairman of the Committee on Enrollment, reported C. B. No. 9 correctly enrolled.

Mr. McCormick reported C. B. No. 25 and C. B. No. 55 correctly engrossed.

On motion of Mr. Bagg, the Joint Resolution granting Mr. R. Lawrence, as contestant, the "per diem" of a member of the Council, was taken from the table, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—None.

Mr. Spratt, by consent, introduced C. B. No. 65, without previous notice, "An Act to amend an act entitled an act to incorporate the City of Virginia."

Read first and second time, and referred to Committee on Judiciary.

Mr. Merriman, from the Committee on Mines and Minerals, presented Joint Memorial No. 4, which was read first and second time, rule suspended, read third time by its title, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—None.

Mr. McCormick, by consent, introduced C. B. No. 63, "An Act dissolving the bands of matrimony between E. B. Waring and R. P. Waring."

Read first and second time, and the rules were suspended, bill read third time, and passed by the following vote:

Yeas—Messrs. Bagg, McCormick, Merriman, and Phelps—4.

Nays—None.

Mr. Spratt and Mr. President excused from voting.

Mr. Leavitt absent.

Mr. Bagg called up C. J. R. No. 10, "Memorializing Congress for an enabling act, and to establish the southern boundary line of the Territory of Montana."

Read, and referred to Special Committee, consisting of Messrs Bagg, Spratt, and McCormick.

Mr. Merriman moved to adjourn. Lost.

H. B. No. 5 was taken up, and read for information.

Mr. Bagg moved a call of the House.

Call sustained, and the Sergeant-at-Arms was sent for the absent members; returned, and reported Mr. Leavitt in his seat.

H. B. No. 5 was placed on file, to be considered under general orders.

Mr. McCormick moved to adjourn. Lost.

Mr. McCormick called up C. B. No. 55. Rule suspended, bill read third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—None.

Mr. Bagg, by consent, introduced C. B. No. 64, "An Act supplementary to an act concerning Territorial Auditor."

Read first and second time, rule suspended, and the bill read third time, and lost by the following vote:

Yeas—None.

Nays—Messrs. Bagg, McCormick, Phelps, Spratt, and Mr. President—5.

Messrs. Leavitt and Merriman absent.

Mr. Merriman called up C. B. No. 46, which was read for information, and on motion of Mr. Spratt, the report of the Committee of the Whole was adopted.

Bill ordered engrossed, and passed to its third reading.

On motion of Mr. Bagg the Council went into Committee of the Whole, to consider C. B. No. 53. Mr. Bagg in the chair.

On motion of Mr. Potter, the Committee of the Whole arose and took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—all the members in their seats.

Pursuant to adjournment, Council went into Committee of the Whole, to further consider C. B. No. 53,

On motion of Mr. Phelps, the Committee arose.

Mr. Bagg, chairman, asked further time to report. Granted.

Communication from the House was received, announcing the passage of C. J. R. No. 9, and H. J. R. No. 12.

Mr. Spratt, chairman of the Committee on Judiciary, reported C. B. No. 65 back to the Council and recommend it be considered in Committee of the Whole.

Report received and adopted.

On motion of Mr. McCormick, C. B. No. 65 was made the special order for 10 o'clock, Monday morning.

A communication was received from the county surveyor, W. W. De Lacy, addressed to the Chief Clerk.

On motion of Mr. Bagg, the Council adjourned to 10 o'clock, Monday morning.

TWENTY-NINTH DAY.

APRIL 2, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Mr. Leavitt absent.

Journal of Saturday read and approved.

The following report was received from the Commission appointed to examine the accounts of the late Auditor and Treasurer of this Territory:

To the Honorable Council and House of Representatives of the Territory of Montana:

The undersigned, a Committee appointed by the Legislature to inquire into the accounts of the late Territorial Treasurer and Auditor, respectfully report the following:

From the limited time allotted to us, we necessarily have to deal in generalities. Our report is based upon the papers and records we find in the hands of the Treasurer and Auditor, and with it we have appended vouchers of some accounts, that the Legislature could the better understand the condition of our finances, and the mode of disposing of the public funds.

Amount of territorial warrants issued		$85,004 50
Amount of funds received	$30,060 63	
Amount of warrants redeemed	29,809 05	
		251 58
Paid J. S. Rockfellow		115 00
Balance in hands of Treasurer		$136 58

The amount of Warrants, and to whom issued.

Sidney Edgerton, Governor	$3,646 00
H. L. Hosmer, Chief Justice	3,583 00
S. J. Williston, Associate	3,646 00
L. E. Munson, "	3,090 00
Wm. Y. Pemberton, District Attorney	750 00
Jerry Cook, " "	250 00
Samuel Word, " "	504 11
E. F. Phelps, " "	1,250 00
J. H. Shober, " "	500 00
Total amount	$17,219 11

Members of the Council.

Charles S. Bagg	$ 760 00
N. Merriman	810 00
R. Lawrence	760 00
F. M. Thompson	720 00
A. S. Potter	760 00
E. D. Leavitt	720 00
F. S. Worden	820 00
Total amount	$5,350 00

Members of the House of Representatives.

A. J. Smith	$ 720 00
E. B. Johnston	820 00
P. Ryan	760 00
W. Faulds	720 00
Willey Huffaker	760 00
M. Courtwright	810 00
Geo. Detwilder	830 00
W. J. McCormick	760 00
James Stuart	780 00
Francis Bell	760 00
N. E. Mayhew	760 00
J. N. Buck	810 00
Total amount	$9,290 00

Clerks of Council and House of Representatives.

John C. Ryan	$ 700 00
Robert Hereford	700 00
O. T. Hurst	636 00
Frank H. Angvine	700 00
C. E. Irvine	582 00
J. M. Galloway	639 00
W. S. Brown	700 00
T. G. Horford	720 00
J. J. Blake	700 00
W. T. Richardson	700 00
Alfred Morton	720 00
S. T. Dunlap	720 00
Geo. A. Hayes	660 00
Geo. Stevens	660 00
Total amount	$9,534 00

Sergeant-at-Arms of Council and House.

Geo. W. Hill	$ 580 00
H. G. Otis	540 00
Total amount	$1,120 00

Doorkeepers of Council and House.

Harris Gillman	$420 00
Aaron Flough	420 00
Total amount	$840 00

Chaplain.

Joseph R. Carr	$300 00

Pages for House and Council.

E. Watson	$120 00
W. P. Edgerton	300 00
Total amount	$420 00

Firemen for the Council and House.

S. M. Johnson	$ 720 00
S. Chamberlain	720 00
Total amount	$1,440 00

Commissioners to locate the Capitol.

George Chrisman	$102 00
R. B. Parrott	60 00
W. F. Sanders	60 00
Total amount	$222 00

For Copying and Drawing Practice Act.

Harry Burser	$400 00

Printing Blanks, etc.

D. W. Tilton & Co.	$2,031 60
Jno. P. Bruce	30 00
Wm. S. Lott	4,146 00
Stationery, from D. W. Tilton & Co	100 00
Total amount	$6,307 60

Auditor.

J. S. Lott	$5,456 39

Treasurer.

J. J. Hull	$1,050 00

County Treasurers.

Theodore Muffy, (Madison)	$ 691 42
H. G. Cary, "	276 50
L. McMurtry, (Deer Lodge)	414 42
Andrew Leech, (Madison)	130 00
Robert Wiler, (Deer Lodge)	121 75
R. Lawrence, (Edgerton)	639 78
Amount forward	$2,273 87

Amount brought forward	$2,273 87
H. Barrett, (Beaver Head)	38 73
J. B. Campbell, (Gallatin)	200 00
P. H. Rea, (Edgerton)	75 87
D. H. Hopkins, (Beaver Head)	61 50
R. N. Hill, (Madison)	100 00
Total amount	$2,749 97

Auditor's Office.

R. M. Renshaw, desk and table	$187 00
Wm. F. Sanders, office rent	150 00
Michael Quin, cutting wood	20 00
Jno. Morrissey, " "	7 00
A. J. Snider, 5 cords of wood	152 50
Geo. W. Irvin, 2½ cords of wood	84 00
Total amount	$600 50

Miscellaneous, and No Vouchers.

David D. Chamberlain	$600 00
B. B. Burchett	108 00
W. W. DeLacy	625 00
J. E. McClurg, office rent	50 00
A. J. Oliver	7 50
J. R. Brown	200 00
Total amount	$1,590 50

Code Commission—W. F. SANDERS, *Chairman.*

Expenses of Code Commission	$ 250 00	
" to pay members of Commission	500 00	
Rent of office, one month	125 00	
Amount paid Sanders one month	155 65	
Total paid to Sanders		$1,030 65

Amount brought forward	$1,030 65
Amount paid James Gibson, for rent of office, 4 months.	600 00
John Ming, sundries	394 50
C. W. White, for ice	23 56
John Goldeburg, wood	10 00
Geo. Hanna & Co., sundries	131 38
T. O'Conner, sundries	30 00
Griffith & Thompson, stationery and desk	20 00
Clerk of Code Commission, D. H. Hopkins, commencing 25th of March, and ending Nov. 10th, 1865, 7½ months, at $500 per month	3,750 00
Geo. W. Irvin, clerk, 5½ months, at $500 per month... (As per vouchers 17, 20, 25, 31, 32, 44 and 48, herewith appended.)	2,563 33
James D. Douglas, clerk, one month	300 00
John B. Miller, clerk, ½ month	200 00
Total expenses Code Commission	$9,053 42

Amount issued for pursuing Fugitives from Justice.

John Featherson, in search of Buckerer	$3,000 00
" " " J. M. Thurmond	1,798 00
(As per vouchers 58 and 60.)	
Neil Howie, (as per voucher)	3,000 00
Henry Thompson, in search of fugitives	2,500 00
S. W. Hurst, in pursuit of unknown fugitives	1,758 00
Total amount	$12,056 00

Amounts received by the Territorial Treasurer from the several Counties.

Madison county	$17,075 61
Beaver Head county	1,364 58
Edgerton "	6,514 19
Deer Lodge "	3,599 67
Gallatin "	1,255 00
Jefferson "	251 28
Total	$30,060 33

Recapitulation.

Sydney Edgerton, Governor	$ 3,646 00
Judges Supreme Court, three	10,319 00
District Attorneys	3,254 11
Legislature and attachees	28,297 00
County Treasurer	2,749 98
Printing blanks	6,307 60
Code Commission	9,053 42
Pursuing fugitives	12,056 00
Commission to locate capitol	222 00
Writing and copying Practice Act	400 00
Auditor's fees	5,456 39
Treasurer's fees, territorial	1,050 00
Expenses Auditor's office	600 50
Miscellaneous	1,590 50
Total amount of warrants issued	$85,004 50
Amount of warrants issued	$85,004 50
" " " redeemed	30,060 33
Amount of warrants outstanding	$54,944 17

The Committee have appended copies of accounts audited, that the Legislature may fully understand and judge for themselves the necessity of stringent legislation and disbursement of the public funds. The officer auditing the various warrants may have acted in good faith, yet the Committee is not prepared to say that he acted in accordance with the law. There seems to have been, in many instances, no prerequisite to the issuing of warrants other than that of having the same certified; and, in some instances, the party certified to the correctness of his own account.

We would call your attention to the accounts allowed the "code commissioners," etc., and the amounts allowed parties pursuing fugitives from justice, and the printing of blanks for territorial and county officers, believing the same to be beyond a fair compensation for the services rendered. The Committee would suggest that, for the future, as a matter of economy, the pursuit of fugitives, and the codification of the laws, be dispensed with.

In conclusion, we regret that we cannot give a more flattering account of the financial condition of the Territory. We have given as detailed an account of the affairs of the Auditor's and Treasurer's offices as our limited time would allow.

Respectfully, your obedient servants,

A. LEECH.
W. M. STAFFORD.

On motion of Mr. McCormick, the report was referred to a Special Committee, consisting of Messrs. McCormick, Phelps, and Bagg.

The following communication was received from the House :

HOUSE OF REPRESENTATIVES.

To the President of the Council:

SIR—I am authorized to inform your honorable body that the following bills were disposed of by the House, on Saturday, March 31st, and the introduction of—

H. B. No. 47, "An Act creating a fund for the benefit of common schools in Montana Territory." Read first, second and third time, and lost.

On motion of Mr. Parrott, C. B. No. 25 was called up, and a vote taken upon the passage of the bill, notwithstanding the Governor's veto.

Voting for—Messrs. Deames, Hanna, Maxwell, McCullough, McElvray, Mims, Parrott, Rice, Weed, and Mr. Speaker—10.

Voting against—Messrs. Corry and Smith—2.

Absent—Mr. La Fountaine.

Bill having received a two-thirds vote, was declared passed over the Governor's veto.

C. J. R. No. 8, read first, second and third time, and passed.

C. B. No. 57, "An Act defining the duties of county surveyor." Read first, second and third time, and passed.

C. B. No. 58, "An Act concerning limited partnership." Read first and second time, and laid on the table.

C. B. No. 63, "An Act to divorce E. P. Waring and R. P. Waring," was called up, read first, second and third time, and lost.

On motion of Mr. Parrott, the vote was reconsidered, bill read again and passed, March 31st, 1866.

C. B. No. 20, "An Act to dissolve the bonds of matrimony between Peter Reswick and Lida Reswick," read third time and passed, March 31st, 1866.

Respectfully submitted,

JOHN F. RUCKER,
Chief Clerk of House.

Mr. Merriman, chairman of the Committee of the Whole, reported H. B. No. 23 back to the Council, with amendments, which was adopted.

On motion of Mr. Bagg, H. B. No. 23 was passed to its third reading.

On motion of Mr. Bagg, the vote passing H. B. No. 23 to its third reading was reconsidered.

On motion of Mr. McCormick, H. B. No. 23 was recommitted to Committee of the Whole.

C. B. No. 65, the special order for 10 o'clock, was taken up, and, on motion of Mr. Spratt, the Council went into Committee of the Whole, to consider said bill.

Mr. McCormick in the chair.

On motion of Mr. Bagg, the Committee of the Whole arose, with leave to sit again, for the purpose of considering said bill.

Mr. McCormick, chairman of Committee on Engrossment, reported C. B. No. 46 and C. B. No. 53 correctly engrossed.

On motion of Mr. Merriman, H. B. No. 3 was taken from the table and placed on file, to be considered with general orders.

H. B. No. 15 was taken from the table and placed on file, to be considered in its regular order.

H. J. R. No. 4 was taken up, read first time and laid on the table, on motion of Mr. Bagg, for further consideration.

On motion of Mr. Bagg, Council went into Committee of the Whole, to consider H. B. No. 3.

Mr. Bagg in the chair.

Mr. Potter moved the Committee arise and report progress.

Mr. Potter moved that no private bill shall be considered until after the bill known as the "General Incorporation Act," shall have been passed or defeated. Motion adopted.

Mr. Leavitt moved to reconsider.

Mr. Bagg moved to lay the motion on the table. Adopted.

On motion of Mr. Spratt, the Council went into Committee of the Whole, to consider H. B. No. 23.

Mr. McCormick in the chair.

On motion of Mr. Bagg, the Committee arose.

Mr. McCormick was granted time to report.

The following communication was received in regard to the appointment of a Commitee of three from the Council, to act in conjunction with five from the House, on the Joint Memorial reported by the Committee on Mines and Minerals.

On motion of Mr. Spratt, the communication was filed for further consideration.

Mr. McCormick, chairman of the Committee of the Whole, reported H. B. No. 23 back to the Council, with amendments.

Report read and adopted, and amendments ordered engrossed.

C. B. No. 25 was taken up and passed to third reading, and, on motion of Mr. Spratt, the bill was laid on the table.

On motion of Mr. Leavitt, the Council adjourned to 2 o'clock, P. M.

AFTERNOON SESSION.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—all the members present.

Council went into Committee of the Whole, to consider C. B. No. 47 and C. B. No. 60.

Mr. Merriman in the chair.

On motion of Mr. Bagg, the Committee arose.

Mr. Merriman was granted further time to report.

On motion of Mr. Spratt, C. B. No. 65 was taken up, "An Act to amend an act entitled an act to incorporate Virginia City, and to repeal parts of said act."

Mr. Spratt offered the following amendment to section 8: third line, after word "Justice," "from and after the first Monday in February, 1867, to appoint one city treasurer, one city marshal, and one city attorney," which was adopted, and the bill ordered engrossed.

Mr. Merriman, chairman of the Committee of the Whole, reported C. B. No. 47 back to the Council, and recommend its passage.

Report adopted, and the bill ordered engrossed for third reading.

Mr. Merriman, from Committee of the Whole, also reported C. B. No. 60 back to the Council, with the recommendation that it do not pass, and, on motion of Mr. McCormick, the report of

the Committee was adopted, and the bill was indefinitely postponed.

Mr. Bagg, chairman of the Committee on Enrollment, reported C. J. R. No. 8, and H. B. No. 20, correctly enrolled.

Mr. Leavitt introduced the following C. J. R. No. 10:

Resolved, by the Legislative Council, the House concurring, That the Legislative Assembly of the Territory of Montana now in session, shall be adjourned on or before Saturday, 7th day of April, A. D. 1866.

Adopted, and resolution ordered engrossed.

Mr. McCormick, chairman of Committee on Engrossment, reported C. B. No. 25 correctly engrossed.

C. B. No. 25 was taken up, read third time, and passed by the following vote:

Yeas—Messrs. Bagg, McCormick, Merriman, Phelps, Spratt, and Mr. President—6.

Mr. Leavitt absent.

The following was adopted as the title of C. B. No. 25: "An Act concerning lost goods and estrays."

The following communications were received from the Governor:

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
Virginia City, April 2, 1866.

To the President of the Council:

SIR—I respectfully return the act to incorporate the Marshall Ferry and Bridge Company" unapproved, as I consider it my duty to object to the following items in the schedule of toll rates:

Section 5. I object to loose horses, mules, and cattle each paying fifteen cents for crossing, as I consider ten cents a sufficient charge. I object to a wagon with two horses, mules or oxen paying two dollars for crossing, as I consider one dollar for such wagon a sufficient charge.

I object to each additional span of horses, mules or oxen paying fifty cents, as I consider twenty-five cents for each additional span an abundant charge, to say the least of it.

I have the honor to be,
Very truly,
Your obt. servant,
THOMAS FRANCIS MEAGHER,
Acting Governor.

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
Virginia City, April 2, 1866.

To the President of the Council:

SIR—The act to incorporate the Marshall Ferry and Bridge Company provides, section 2, that this franchise shall not be deemed and taken as a denial of the right of any person to ford said river; nor of the right of any party to build a free bridge, or establish a free ferry at any time within the limits prescribed in this act for the building of said ferry or bridge.

This is a most excellent provision which, though the common law gives the liberty it specifies, it is wise to have explicitly defined in all such charters as the above.

It is omitted, however, from the act to authorize Elijah Crawford and William Honnor to erect and maintain a toll bridge over the Jefferson river, in Madison county, at the Big Island. I consider it my duty, therefore, to return the act authorizing E. Crawford and William Honnor to maintain a toll bridge, unapproved.

I have the honor to be,
Very truly, your obedient servant,
THOMAS FRANCIS MEAGHER,
Acting Governor.

The communications were placed on file for further consideration.

H. B. No. 23 was taken up, and Mr. Spratt moved the adoption of the following amendment to sec. 91: Strike out the words "over fifty dollars."

Which was adopted by following vote:

Yeas—Messrs. Leavitt, McCormick, Phelps, Spratt, and Mr. President—5.

Nays—Messrs. Bagg and Merriman—2.

On motion of Mr. Bagg, H. B. No. 23 was recommitted to Committee of the Whole.

Mr. Bagg, by consent, introduced C. B. No. 66, "An Act to amend an act entitled an act concerning licenses, approved Feb. 9th, 1864."

Read first and second time, and, on motion of Mr. Bagg, the bill was ordered engrossed.

On motion of Mr. Bagg, a Committee of two was appointed to confer with a Committee of three from the House, in regard to the disagreement upon H. B. No. 6.

Chair appointed Messrs. Bagg and Phelps on said Committee.

On motion of Mr. McCormick, H. B. No. 23 was made the special order for 10 o'clock, to-morrow.

On motion of Mr. McCormick, the Council adjourned to 10 o'clock, A. M., to-morrow.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

THIRTIETH DAY.

APRIL 3, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—all the members present.

Journal of previous day read and approved.

The following communication was received:

HOUSE OF REPRESENTATIVES.

To the President of the Council:

SIR—I am instructed by the House to inform your honorable body of the disposition of the following bills, and the introduction of H. B. No. 48, "An Act to prevent pasturing stock on winter grass lands in Montana Territory."

And the passage of

H. B. No. 44, "An Act defining the duties of Superintendent of Public Instruction for the Territory of Montana, and fixing the salary of the same."

Also, the passage of H. J. R. No. 9, and the indefinite postponement of H. B. No. 46, "An Act relating to the Legislative Assembly of Montana Territory."

All of which is respectfully submitted.

JOHN F. RUCKER,
Chief Clerk of House.

Mr. Bagg gave notice that he would, on to-morrow, move to rescind the resolution or motion passed yesterday, whereby all private bills were precluded from having action on the same, by a vote of the Council.

Special order for 10 o'clock.

H. B. No. 23 was taken up, and, on motion, the Council went into Committee of the Whole, to consider said bill.

Mr. McCormick in the chair.

Mr. Leavitt moved the Committee arise, and report progress. Carried.

On motion of Mr. Leavitt, the Council adjourned to 2 o'clock, P. M.

Afternoon Session.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Messrs. Merriman and Leavitt absent.

Mr. McCormick, chairman of the Committee of the Whole, made a report upon H. B. No. 23, which was read, and adopted.

On motion of Mr. McCormick, the vote upon which the report upon H. B. No. 23 was adopted, was reconsidered, and Mr. McCormick withdrew his report, with leave to amend.

Mr. Merriman, by consent, introduced C. B. No. 67, "An Act to dissolve the bands of matrimony between Frances A. Richardson and Foster Richardson."

Read first and second time, and, on motion of Mr. Bagg, the rules were suspended, and the bill was read third time by its title, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, and Merriman—4.

Nays—Mr. Spratt, and Mr. President—2.

Mr. Phelps excused from voting.

Mr. Spratt gave notice that he would, on to-morrow, introduce "A Bill to amend an act concerning divorce."

Mr. McCormick, chairman of the Committee of the Whole, reported H. B. No. 23 back to the Council, and, on motion of Mr. Bagg, H. B. No. 23 was recommitted to the Committee of the Whole, and the Council went into Committee of the Whole, to consider said bill.

Mr. McCormick in the chair.

Mr. Leavitt moved the Committee do now rise, and report.

Mr. McCormick asked for further time to report.

Mr. McCormick, chairman of the Committee on Engrossment, reported the amendments to H. B. No. 36 and C. B. Nos. 47, 65 and 66 correctly engrossed.

C. B. No. 65 was taken up, and, on motion of Mr. Bagg, the rules were suspended, and the bill was read third time by its title, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Spratt, and Mr. President—5.

Nay—Mr. Merriman.

Mr. Phelps was excused from voting.

C. B. No. 66, "An Act to amend an act entitled an act concerning licenses," was taken up, read third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—None.

C. B. No. 47, "An Act concerning counties and county officers," was taken up, rule suspended, bill read third time, and passed by the following vote:

Yeas—Messrs. Bagg, McCormick, Merriman, Phelps, Spratt, and Mr. President—6.

Mr. Leavitt absent, on leave.

The following communication was received and read from the county commissioners of Madison county:

To the Honorable Members of the Council and Assembly of the Territory of Montana—

Your petitioners would respectfully bring to your notice, that the former board of county commissioners, in levying the tax for 1865, levied one mill on the dollar more than the laws of the Territory allowed for territorial purposes. We would therefore pray of you to pass an act directing the Territorial Treasurer to pay into the county treasury all amounts overpaid to him, to be paid by the county treasurer to the parties who have overpaid, provided it is applied for within six months, and that all accounts not claimed within that time shall accrue to the benefit of the county treasury.

W. W. RODGERS,
BEN. EZEKIEL,
A. STANLEY,
Board of County Commissioners of Madison County.

On motion of Mr. McCormick, the communication was referred to the members of the Council from Madison county.

Mr. Merriman moved to adjourn. Lost.

Mr. McCormick, chairman of the Committee of the Whole, made the following report:

MR. PRESIDENT—The Committee of the Whole, to whom was referred H. B. No. 23, have had the same under consideration, and beg leave to report the same back to the Council, with the recommendation that the Council do not pass the original bill, but that the substitute be adopted.

W. J. MCCORMICK, *Chairman.*

Report received, and rejected.

Also the following:

MR. PRESIDENT—The Committee of the Whole, to whom H. B. No. 23, "An Act amendatory of the civil practice act," was recommitted, beg leave to make the following report:

That they have had the same under consideration, and beg leave to report said bill back to the Council, with the following substitute:

Strike out all of the original after the enacting clause, and adopt the following as a substitute therefor, without the enacting clause

All of which is respectfully submitted.

W. J. MCCORMICK, *Chairman.*

Report received, and adopted, and bill ordered engrossed for its third reading.

Mr. Leavitt moved that fifty copies of C. J. M. No. 3, reported from Committee on Mines and Minerals, be printed, which was carried.

Mr. Merriman moved to adjourn. Lost.

H. J. R. No. 9 was taken up, and read first and second time, and, upon motion of Mr. Leavitt, was laid on the table.

H. B. No. 44, "An Act defining the duties of Superintendent of Public Instruction of the Territory of Montana, and fixing the salary of the same."

Read first and second time, and referred to Committee on Judiciary.

On motion of Mr. Merriman, the Council adjourned to 10 o'clock A. M., to-morrow.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

THIRTY-FIRST DAY.

APRIL 4, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Mr. Merriman absent.

Journal of previous day read and approved.

The following communication was received from the House:

HOUSE OF REPRESENTATIVES,
Wednesday, April 4th, 1866.

To the President of the Council:

SIR—I have the honor of announcing to your body, that on yesterday C. B. No. 1, C. B. No. 13, and C. B. No. 21, were passed by the House, with the amendments that accompany each bill; in which amendments the House respectfully ask your concurrence.

H. B. No. 35, "The ranch law," was read third time, and passed, and is now being engrossed.

H. B. No. 40 was passed, and is herewith submitted.

Also, the House concurred in the Council amendments to H. R. No. 6, from which the Council were unwilling to recede.

With respect, I am,

Your obt. servant,

JOHN F. RUCKER.

On motion of Mr. Bagg, the resolution was rescinded in regard to the consideration of private bills.

Mr. Bagg, by consent, introduced C. B. No. 68, "An Act to repeal an act entitled an act to incorporate the Madison River Ditch Company."

Read first and second time, and referred to Committee on Incorporations.

By consent, Mr. Phelps introduced C. B. No. 69, "An Act to amend an act entitled an act to regulate the proceedings in civil cases in the courts of justice of the Territory of Montana."

Read first and second time, and placed on file, to be considered in Committee of the Whole.

By previous notice, Mr. Spratt introduced C. B. No. 70, "An Act to amend an act entitled an act concerning divorce and alimony."

Read first and second time, and placed on file, to be considered in Committee of the Whole.

Mr. Bagg introduced, without previous notice, C. B. No. 71, "An Act authorizing Perry W. McAdow, Richmond T. Gallispie and Alexander Davis to establish and maintain a toll road from the Town of Sterling, in Madison county, to the south line of the Territory, near the Henry's Fork of Snake river."

Read first and second time, and referred to Committee on Incorporations.

By consent, Mr. Phelps introduced C. B. No. 72, without previous notice, "An Act to incorporate the Black Tail Deer and Helena Wagon Road Company."

Read first and second time, and referred to Committee on Incorporations.

On motion of Mr. Leavitt, the communications of the Governor, in which he gives his objections to C. B. No. 9, and C. B. No. 61, were taken up, and considered.

On motion of Mr. Leavitt, the bill was reconsidered.

Mr. Leavitt moved that C. B. No. 61, "An Act authorizing Elijah Crawford and Wm. Horner to erect and maintain a toll bridge on the Jefferson river," do now pass, notwithstanding the Governor's objections, and bill passed by the following two-thirds vote:

Yeas—Messrs. Bagg, Leavitt, Merriman, Phelps, Spratt, and Mr. President—6.

Nay—Mr. McCormick.

C. B. No. 9 was then taken up, "An Act to incorporate the Marshall Ferry Company."

Mr. Bagg moved to reconsider the bill, and Mr. Bagg moved that the bill do now pass, notwithstanding the Governor's objections, and the bill passed by the following two-thirds vote:

Yeas—Messrs. Bagg, Leavitt, Merriman, Phelps, Spratt, and Mr. President—6.

Nay—Mr. McCormick.

Mr. McCormick, chairman of Committee on Engrossment, reported substitute to H. B. No. 23, correctly engrossed.

Report received.

Mr. Bagg called up H. B. No. 36, "An Act to amend an act entitled an act, quartz mining law."

Read for information.

Mr. Bagg moved a call or the House.

Call was sustained.

Roll called—Messrs. Leavitt and Merriman absent.

Sergeant-at-Arms sent for absent members.

Reported Messrs. Leavitt and Merriman in their seats.

On motion of Mr. Leavitt, H. B. No. 36 was laid on the table.

The following communication was received from the Governor:

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
Virginia City, April 4, 1866.

To the President of the Council:

SIR—I have the honor to inform the Council, that I have this day approved and signed Joint Resolution No. 6, "Asking Congress to amend the Organic Act of the Territory of Montana."

And I shall feel much gratified in complying with the request it contains.

Also, the approval and signing of the "Act defining the duties of the county surveyor."

I have the honor to be,

Very truly,

Your obt. servant,

THOMAS FRANCIS MEAGHER,

Acting Governor.

Also, the following:

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
VIRGINIA CITY, April 2, 1866.

To the President of the Council:

SIR—I have the honor to inform the Council that I have this day signed and approved the "Act to incorporate the Gold Hill Mining and Tunneling Company of Montana."

I have the honor to be,

Very truly, your obedient servant,

THOMAS FRANCIS MEAGHER,

Acting Governor.

C. B. No. 21, "An Act concerning jurors," was taken up, and House amendments concurred in, and bill ordered enrolled.

C. B. No. 13, "An Act defining the jurisdiction and powers of the probate courts of Montana Territory."

On motion of Mr. McCormick, the amendments of the House to said bill were concurred in, and the bill was ordered enrolled.

On motion of Mr. Bagg, the following resolution was read and adopted:

Resolved, That the Chief Clerk of the Council is hereby instructed to respectfully return to the Governor, Thomas Francis Meagher, C. B. Nos. 20 and 63, with his communication in relation to those bills, with a copy of this resolution, in which we ask most respectfully His Excellency's attention to the sixth section of the Organic Act, and further ask His Excellency to communicate his objections to said bills, so as to enable the Council to place the same at large upon the journal, that the Council may consider in conformity to the Organic Act.

H. B. No. 40, "An Act supplementary to an act entitled an act defining the duties of county treasurers, and the tax payments of county warrants," was taken up, read first and second time, and referred to Committee on Judiciary.

Mr. Spratt, chairman of Committee on Judiciary, reported H. B. No. 44, "An Act defining the duties of Superintendent of Public Instruction of Montana Territory, and fixing the salary of the same," and recommend it be considered in Committee of the Whole.

Report received, and adopted.

On motion of Mr. Merriman, the Council went into Committee of the Whole to consider H. B. No. 44, H. B. No. 3, H. B. No. 7, C. B. No. 68, C. B. No. 71, C. B. No. 59, C. B. No. 70, H. B. No. 5, C. B. No. 62, C. B. No. 73, C. B. No. 72, and H. B. No. 40.

Mr. Merriman, chairman of the Committee.

On motion of Mr. Potter, the Committee arose, with leave to sit again.

Communication from the House:

HOUSE OF REPRESENTATIVES,
Wednesday, April 4, 1866.

To the President of the Council:

SIR—I have the honor to inform your honorable body of the following proceedings of the House this morning:

C. B. No. 9 was reconsidered, and on taking a vote whether the

bill should pass, over the Governor's veto, the result was—*Yeas*, 10; *Nays*, 2. The bill, having a two-thirds vote, was declared passed, over the veto.

A like proceeding with C. B. No. 61 resulted as follows—*Yeas*, 9; *Nays*, 3; and the bill was declared passed, over the Governor's veto.

C. B. No. 7, read third time and passed, as amended. An engrossed copy of the bill as amended, accompanies the original bill.

H. B. No. 24 laid on the table.

C. B. No. 67, on its final passage, was lost.

C. B. No. 47 was, under the suspension of the rule, read third time, and passed.

Mr. Maxwell introduced H. B. No. 49, "An Act to authorize the Territorial Auditor to fund the present territorial indebtedness."

All of which is respectfully submitted.

JOHN F. RUCKER,
Chief Clerk of House of Representatives.

P. S. I also submit H. B. No. 35, passed yesterday, and H. B. No. 33, passed to-day.

W. W. CHILES, *Ass't Clerk.*

The following communication was received from the Governor:

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
VIRGINIA CITY, April 4, 1866.

To the Hon. President of the Council:

SIR—I have the honor herewith to return to your honorable body Council Bills Nos. 20 and 63, unapproved.

I disapprove of the bills, as they do not set forth the grounds upon which the divorces are sought, nor have I otherwise succeeded in obtaining the information which would justify me in approving them.

In the second place, I consider the courts more appropriate places to dispose of all such acts.

In the third place, these divorce bills are multiplying in such a

measure as to bring our social condition into grave disrepute, and give to strangers the impression that Montana is a paradise for all belligerent wives and husbands, where matrimony and its obligations for better or worse, is absolved of its sanctity and force with the most abundant facility.

In acknowledging the resolution accompanying the bills returned to me for my objections, and asking me to communicate my objections to said bills so as to enable the Council to place the same at large on the journal, that the Council may consider them in conformity with the Organic Act, I beg most respectfully to assure the Council, that the Council having deemed it fit and courteous utterly to overlook my objections to a former bill, I came to the conclusion that, notwithstanding the sixth section of the Organic Act, it would be more agreeable to the Council were I to refrain as much as possible from uselessly encumbering with objections any veto I might consider it my duty to render.

I have the honor to be,

Your obedient servant,

THOMAS FRANCIS MEAGHER,

Acting Governor.

On motion of Mr. Bagg, C. B. No. 20, "An Act dissolving the bonds of matrimony between Peter Reswick and Lydia Reswick," was reconsidered, and Mr. Bagg moved that C. B. No. 20 do now pass, notwithstanding the objections of the Governor, and the bill passed by the following two-thirds vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, and Phelps—5.

Nays—Mr. Spratt, and Mr. President—2.

On motion of Mr. Bagg, C. B. No. 63 was reconsidered, "An Act dissolving the bonds of matrimony between Eliza P. Waring and R. P. Waring."

Mr. Bagg moved that C. B. No. 63 do now pass, notwithstanding the objections of the Governor, and bill passed by the following two-thirds vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, and Phelps—5.

Nays—Mr. Spratt, and Mr. President—2.

The substitute to H. B. No. 23 was then taken up, read third time, and passed by the following vote:

Yeas—Messrs. Leavitt, McCormick, Phelps, and Spratt—4.

Nays—Messrs. Bagg, Merriman, and Mr. President—3.

Title agreed to.

C. B. No. 1 was taken up, "An Act defining the duties of Territorial Auditor and Treasurer of the Territory of Montana," and read as amended by the House, and the amendments to sections 1 and 12 were concurred in, and the amendment to section 21 was rejected.

H. B. No. 35, "An Act maintaining and defining possessory rights upon the public domain in Montana Territory."

Read first time, and referred to Committee on Agriculture.

On motion of Mr. Bagg, the Council adjourned to 10 o'clock, A. M., to-morrow.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

THIRTY-SECOND DAY.

APRIL 5, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Messrs. Leavitt and Phelps absent.

Journal of previous day read and approved.

C. B. No. 7 was taken up, "An Act to authorize John S. Rockfellow, T. D. Mattly, and others, their heirs and assigns, to construct and maintain a toll road from Virginia City, by way of Hot Spring District and Crow Creek, to Helena."

Read first and second time, and placed on file, to be considered in Committee of the Whole.

H. B. No. 33, "An Act regulating the fees of officers, jurors, and witnesses."

Read first and second time by its title, and placed on file for consideration by Committee of the Whole.

H. B. No. 21, "An Act to incorporate the Ohio Ditch Company."

On motion of Mr. Bagg, the bill was passed to third reading, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—None.

C. B. No. 46, "An Act to incorporate the Prickly Pear and Missouri River Ferry Company," read third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—None.

The following communication was received from the House:

HOUSE OF REPRESENTATIVES,
April 5th, 1866.

To the President of the Council:

SIR—I am authorized to inform your honorable body of the introduction of H. B. No. 50, "A bill for an act to authorize W. M. Couch to construct and maintain a toll road." The rules were suspended, bill read third time, and passed by a unanimous vote.

Respectfully submitted,

JNO. F. RUCKER,
Chief Clerk of House.

Mr. Bagg introduced C. J. R. No. 11, which was read first and second time, and referred to Committee on Ways and Means.

C. B. No. 53, "An Act to establish a bridge or ferry across the Missouri river."

Read third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Phelps, Spratt, and Mr. President—6.

Nay—Mr. Merriman.

Mr. Bagg, chairman of Committee on Agriculture, made a report on H. B. No. 35, "An Act for maintaining and defining possessory titles upon the public domain in Montana Territory."

Report received and adopted.

On motion of Mr. Merriman, H. B. No. 35 was placed on file, to be considered in Committee of the Whole.

Mr. Merriman in the chair.

On motion of Mr. Potter, the Committee of the Whole arose, with leave to sit again.

Mr. Bagg, chairman of the Committee on Enrollment, reported C. B. No. 21 and C. B. No. 47 as correctly enrolled.

Mr. Bagg offered the following C. J. R. No. 12 :

Resolved, By the Council, the House concurring, That the Special Commission appointed by the Legislative Assembly to investigate the accounts of the Auditor of the Territory of Montana, shall receive for each day's services, when actually occupied in such duties, the sum of twenty dollars per day, and it shall be the duty of the Auditor of this Territory to audit the same account due them and draw his warrant on the territorial treasury for the payment of the same; and that the said Commission, composed of Andrew Leech and Wm. M. Stafford, shall pay out of the funds so appropriated, their clerk or clerks employed by said Commission.

Read first and second time, rule suspended, read third time, and adopted.

On motion of Mr. Bagg, the Council adjourned to 2 o'clock, P. M.

Afternoon Session.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Messrs. Leavitt and Spratt absent.

Mr. Merriman moved a call of the House.

Call sustained.

On motion of Mr. Bagg, the call of the House was dispensed with.

On motion of Mr. Bagg, the vote on C. J. R. No. 12 in regard to to the pay of the Commission to examine the Territorial Auditor's books, was reconsidered.

On motion of Mr. Bagg, the account of Messrs. Leech and Stafford was referred to the Committee on Ways and Means.

On motion of Mr. Phelps, the Committee arose, with leave to sit again.

Mr. McCormick offered C. J. R. No. 13:

Resolved, That whereas Andrew Leech and Wm. M. Stafford, Commissioners, were appointed by a joint resolution of the Legislative Assembly of the Territory of Montana, to examine the accounts of the late Territorial Auditor and Treasurer of this Territory, and report thereon to the Legislature; and whereas the said Leech and Stafford, in pursuance of said resolution, have performed said service to the entire satisfaction of the Legislature and the people of the Territory at large, and were engaged in said work four days each, therefore be it—

Resolved, By the Council, the House concurring, That the Auditor of the Territory be and is hereby required to audit and pay to the said Leech and Stafford, each, the sum of eighty dollars, being at the rate of twenty dollars per day for said services.

(Signed) W. J. McCORMICK.

Read first and second time, rule suspended, read third time by its title, and passed.

H. B. No. 50, "An Act authorizing Wm. M. Couch to construct and maintain a toll road from the mouth of Stinking Water Canon to the southern boundary line of the Territory."

Read first and second time, and referred to Committee of the Whole.

On motion of Mr. McCormick, the Council went into Committee of the Whole, to consider H. B. No. 50.

On motion of Mr. Bagg, the Committee arose.

Mr. McCormick, chairman of Committee of the Whole, asked further time to report. Granted.

On motion of Mr. Merriman, the Council adjourned to 7½ o'clock, P. M.

Night Session.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Messrs. Bagg and Leavitt absent.

Council went into Committee of the Whole, on motion of Mr. McCormick.

Mr. Merriman in the chair.

On motion of Mr. Leavitt, the Committee rose, with leave to sit again.

Mr. McCormick, chairman of the Committee of the Whole, made the following report on H. B. No. 50:

Mr. President—The Committee of the Whole, to whom was referred H. B. No. 50, have had the same under consideration,

and beg leave to report the same back to the Council, with the recommendation that it pass, with the following amendment:

Strike out, in fourth line of section 2, the words "four rods."

W. J. McCORMICK, *Chairman.*

On motion of Mr. Leavitt, the report of the Committee was laid on the table.

On motion of Mr. Leavitt, the rules were suspended, and the bill was read third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, and Spratt—5.

Nay—Mr. President.

Mr. Phelps absent.

Mr. Merriman, chairman of the Committee of the Whole, made the following report on C. B. No. 7:

MR. PRESIDENT—The chairman of the Committee of the Whole, on C. B. No. 7, beg leave to report that after having the same under consideration, recommend that the same do pass, with the accompanying amendments.

Strike out section 3, and insert the following:

"That two toll gates be allowed on said road, neither of which shall be within five miles of the towns of Helena, Stirling, or Virginia City, and at each of said gates the company may collect one-half the rates allowed by the charter."

Add to the last of section 7:

"Shall it interfere with the franchise and charter of the Missouri river and Rocky Mountain Wagon Road and Telegraph Company, granted at the First Legislative Assembly of the Territory of Montana.

"Nor shall the said road be located within the limits of the right of way of the said Missouri river and Rocky Mountain Wagon Road and Telegraph Company, according to the survey made and recorded by them, and authorized by their charter."

N. MERRIMAN, *Chairman.*

On motion of Mr. McCormick, the amendments were ordered engrossed and placed on file for third reading.

On motion, the Council adjourned to 10 o'clock, A. M., to-morrow.

A. S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

THIRTY-THIRD DAY.

APRIL 6, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Messrs. Leavitt and Merriman absent.

Journal of previous day read and approved.

The following communication was received and read:

HOUSE OF REPRESENTATIVES,
Friday, April 6, 1866.

To the Hon. President of the Council:

SIR—I am authorized to inform you of the following bills disposed of in the House on the 5th instant, and the introduction of—

H. B. No. 51, "An Act to tax the Chinese population of Montana Territory."

And the passage of—

C. B. No. 65, "An Act concerning the City of Virginia," with amendments herewith enclosed.

Also, C. B. No. 51, "An Act authorizing Jas. Talbot and J. N. Rice to establish a ferry on the Missouri river," passed the House, with the enclosed amendments.

And the House receded from their amendments to section 2 of C. B. No. 21, in which the Council refused to concur.

The vote on C. B. No. 63 was reconsidered, and a vote taken whether it should pass over the Governor's veto resulted as follows: six voting for the passage of the bill, and five voting against. The bill not receiving a two-thirds vote, was lost.

Also, the vote on C. B. No. 20 was reconsidered, and vote taken whether it should pass over the Governor's veto resulted as follows: five voting for the passage of the bill, and six against. The bill not receiving a two-thirds vote, was lost.

Submitted respectfully,

JOHN F. RUCKER, *Chief Clerk.*

On motion of Mr. Bagg, the Council went into Committee of the Whole.

Committee arose for recess of two hours at 12 o'clock.

AFTERNOON SESSION.

Convened at 2 o'clock.

Mr. Potter moved that the Committee arise, with leave to sit again.

Mr. Bagg, chairman of Committee on Engrossment, reported the amendments to C. B. No. 7 correctly engrossed.

Report received, and adopted.

On motion of Mr. McCormick, the rule was suspended, and bill, with the amendments, passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Phelps, Spratt, and Mr. President—6.

Nays—none.

Mr. Merriman absent.

By consent, Mr. Bagg asked leave to introduce C. B. No. 73, "An Act defining the manner of assessing damages caused by corporations, roads, ditches, flumes, and other companies."

Read, and made special order for 11 o'clock on Saturday, April 7th, 1866, in Committee of the Whole.

The following communication was received from the Governor:

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
Virginia City, April 6th, 1866.

To the President of the Council:

SIR—I have the honor to inform the Council that I have this day approved and signed the following Council bills, viz:

No. 13, "An Act defining the jurisdiction of the probate courts of Montana Territory."

No. 41, "An Act to amend an act entitled an act relating to counties and county officers."

No. 21, "An Act concerning jurors."

I have the honor to be,

Very respectfully, your obedient servant,

THOMAS FRANCIS MEAGHER,
Acting Governor.

On motion of Mr. Leavitt, the Council adjourned till 10 o'clock A. M., to-morrow.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

THIRTY-FOURTH DAY.

APRIL 7, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—all the members in their seats.

Journal of previous day read and approved.

Mr. Bagg, chairman of Committee of Conference, reported that they had agreed on the name of Muscleshell in lieu of Vivian.

Report received, and adopted.

The following communications were received from the House:

HOUSE OF REPRESENTATIVES,
Saturday, April 7, 1866.

To the Hon. President of the Council:

SIR—I am authorized to inform your honorable body of the passage in the House this day of—

C. B. No. 56, "The general corporation act," with enclosed amendments.

And C. B. No. 53, "An Act to establish a ferry or bridge on the Missouri river."

Also, C. B. No. 55, "An Act creating certain offices in the Territory of Montana."

Submitted respectfully,

JOHN F. RUCKER,
Chief Clerk of House.

HOUSE OF REPRESENTATIVES,
Saturday, April 7th, 1866.

To the Hon. President of the Council:

SIR—I am authorized to inform your honorable body of the passage in the House, this day, of—

H. B. No. 51, "An Act to tax the Chinese population of Montana Territory."

And of H. J. R. No. 14.

Submitted respectfully,

JOHN F. RUCKER,
Chief Clerk of House.

HOUSE OF REPRESENTATIVES,
Saturday, April 7th, 1866.

To the Hon. President of the Council:

SIR—I am authorized to inform the Council of the introduction by Mr. Mayhew of H. J. R. No. 15, which was read and adopted.

All of which is respectfully submitted.

JOHN F. RUCKER,
Chief Clerk of House.

HOUSE OF REPRESENTATIVES,
Saturday, April 7th, 1866.

To the Hon. President of the Council:

SIR—I am authorized to inform the Council of the disposition in the House, on Friday, the 6th instant, of the following bills: and the introduction of—

H. J. R. No. 14.

And by Mr. Mimms, H. B. No. 52, "An Act to amend an act concerning weights and measures," was read first and second time, rule suspended, bill read time, and passed.

H. B. No. 53, "An Act to amend an act securing liens to mechanics and others." Read first and second time, rule suspended, read third time and passed.

H. B. No. 54, "An Act to provide for the compensation of J. M. Castner for office rent and fuel furnished Territorial Treasurer of Montana Territory."

C. J. R. No. 13. Read first, second and third time, and passed.

H. B. No. 14, "An Act to repeal an act in relation to trout fishing." Read third time, and passed.

H. B. No. 48 was taken up, read third time, and passed.

The Conference Committee on H. B. No. 6 reported an agreement between the Council and House Committee, that "Muscleshell" be substituted for and in place of "Vivian," and the boundaries of said county remain as in the original bill. Which report was adopted.

Respectfully submitted,

JOHN F. RUCKER,
Chief Clerk of House.

Mr. Merriman, chairman of the Committee of the Whole, made the following report:

MR. PRESIDENT—As chairman of the Committee of the Whole on H. B. No. 3, "An Act to incorporate the Helena City Water Company," I beg leave to report the same back to the Council, with the following provisions:

"*Provided*, That nothing in this act shall be so construed as to interfere with any prior or vested rights of any person or persons to any or all of the water of said spring. *And Provided further*, that upon the petition of at least fifty bona fide citizens of the City of Helena, the commissioners of said county of Edgerton, at any regular meeting hereafter, be and are hereby empowered to reduce the rate of charges for water herein fixed, as to them may seem just and right, but at no time are they allowed to increase the rates as herein charged."

And the same pass as amended.

Report received, and adopted.

Also, that the following, H. B. No. 44, "An Act defining the duties of Superintendent of Public Instruction for the Territory

of Montana, and fixing the salary of the same," do pass, with the amendment offered by the chairman of the Committee of the Whole, as follows:

"That no book, tract, or any other sort of publication of a sectarian character likely to elicit discord on religious subjects, shall be permitted in any of the common schools of this Territory."

Report received, and adopted.

Amendments ordered engrossed.

Also the following:

H. B. No. 15, "An Act to incorporate the Ten Mile and Last Chance Consolidated Water Ditch Company," with the following amendment inserted after the word "settlers," in last line of section 2: "for agriculture, irrigation, mining or milling purposes," with the recommendation that it also pass.

Report received, and adopted.

Also, H. B. No. 7, "An Act to authorize Paul B. Anthony and others to establish a toll road from Helena City to Ophir City," with the following amendments:

Strike out section 3, and insert the following in lieu thereof:

"That said parties may establish a toll gate on said road at any point where the said road crosses the north branch of the Little Blackfoot stream and Snowshoe gulch, in Deer gulch, in Deer Lodge county, and collect toll thereat according to the rates of toll mentioned in the bill, section 2 of this act: *Provided*, That no toll shall be collected on this road while the same or any part thereof is in a bad condition for travel with wagon."

Also, amend section 4. In 6th line, after the word "point," strike out "of commencement along line of said road," and insert the words "where the said road crosses the main divide of the Rocky Mountains and Blackfoot, four rods on either side of said road." Also, strike out, in 9th line, the words "to the place of terminus of said road."

In section 5, amend by striking out, in first line, the word "each," and insert "said." Also, strike out, in 6th line, the words "the respective counties through which said road passes,

after the first day of January, eighteen hundred and sixty-eight, to alter or change the rates of toll established by this act," and insert, in lieu thereof, the words "of Deer Lodge county, shall, at any time after the road is completed according to the provisions of this act, alter the rates of toll as declared in this act, provided they do not increase the same."

Also, strike out the words "man and horse or mule, twenty-five cents," being all of the 11th line, in section 2.

Also, strike out the words "and approval," in last line of section 7.

With the recommendation that it pass.

Report received, and adopted, and amendments ordered engrossed.

H. B. No. 40, "An Act supplementary to an act entitled an act defining the duties of county treasurers and the tax payments of county warrants," with the recommendation that the same be indefinitely postponed.

Also, H. B. No. 35, "An Act for maintaining possessory rights upon the public domain in Montana Territory," with the recommendation that the substitute do pass.

Report received, and adopted.

Also, H. B. No. 33, "An Act regulating the fees of officers, jurors and witnesses," with the recommendation that the same be referred back.

Report received, and adopted.

Also, C. B. No. 70, "An Act to amend an act entitled an act concerning divorce and alimony," with the recommendation that the same do pass without any amendment.

Report received, and adopted.

Also, C. B. No. 74, "An Act for the relief of the tax payers of Madison county in Montana Territory," with the recommendation that the same do not pass.

Report received, and adopted.

N. MERRIMAN, *Chairman.*

Also, the following:

MR. PRESIDENT—As chairman of the Committee of the Whole, on Memorials, House and Council Bills, I beg leave to report back C. B. No. 68, C. B. No. 72, and C. B. No. 71, for the further consideration of the Council, owing to the want of time to consider them in Committee of the Whole.

N. MERRIMAN, *Chairman.*

Report received, and adopted.

Special order for 11 o'clock—C. B. No. 73.

On motion of Mr. Spratt, Council went into Committee of the Whole, to consider C. B. No. 73.

Mr. Bagg in the chair.

On motion of Mr. Potter, the Committee arose.

Mr. Bagg, chairman of the Committee of the Whole, was granted time to make his report.

C. B. No. 65 was taken up, "An Act to amend the charter of the City of Virginia;" the House amendments were concurred in, except the amendment to strike out section 5, and a Committee of Conference, consisting of Messrs. Bagg and Spratt, was appointed to confer with a like Committee of three from the House on said amendment, with the following instructions:

That we do not concur in the House amendments striking out section 5, but the Council will agree in the amendment of said section 5, so as to read "five thousand dollars" instead of four thousand; and also, add in the same section, the words "and none but tax payers of said city shall be allowed the right to vote at such election," and after the word "taxation" the word "otherwise."

C. B. No. 66 was taken up, "An Act to repeal an act entitled an act to incorporate the Missouri River Ditch Company."

Rules suspended, bill read third time by its title, and passed.

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Spratt, and Mr. President—6.

Nays—None.

Mr. Phelps excused.

C. B. No. 70, "An Act to amend an act concerning divorce and alimony," was taken up, rule suspended, read third time, and passed by the following vote:

Yeas—Messrs. McCormick, Phelps, Spratt, and Mr. President—4.

Nays—Messrs. Bagg, and Merriman—2.

Mr. Leavitt absent.

Mr. Bagg, chairman of the Committee of the Whole, reported C. B. No. 73 back to the Council, with the recommendation that it pass.

Report received, and adopted.

Mr. Bagg moved that C. J. R. No. 4 be taken up. House amendments concurred in, and the resolution was ordered enrolled.

Mr. Bagg moved that H. J. R. be taken up.

The resolution was read for information, and laid on the table.

H. J. R. No. 12 was taken up, and passed with the following amendment:

Strike out the words "Andrew Leech, W. M. Stafford, John H. Shober, be and they are hereby commissioned," and in lieu thereof, insert "county commissioners of their respective counties be and they are hereby directed."

On motion of Mr. Merriman, Council adjourned until 2 o'clock, P. M.

Afternoon Session.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—all the members in their seats.

Mr. McCormick, chairman of Committee on Engrossment, reported C. B. No. 69, and the amendments to H. B. No. 36, correctly engrossed.

H. B. No. 42, "An Act to repeal an act concerning trout fishing," was taken up, and rejected on first reading.

H. B. No. 52, "An Act concerning weights and measures," was taken up, and rule suspended, read third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.
Nays—None.

C. B. No. 51 was taken up, "An Act to authorize James Talbot and J. N. Rice to establish a ferry on the Missouri river at the mouth of the Muscleshell, opposite Kercheval City." Rule suspended, bill read third time and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.
Nays—None.

C. B. No. 56, "the General Incorporation Act," was taken up, and Council concurred in the amendments made by the House to said bill.

Mr. Bagg gave notice, that he would, on Monday, move to reconsider the vote of the Council concurring in the House amendments to C. B. No. 56.

Mr. Spratt, by consent, introduced C. B. No. 74, "An Act to amend an act to incorporate the City of Virginia."

Read first time, and laid on the table for further consideration.

C. B. No. 69 was taken up, "An Act to amend an act relating to proceedings in civil cases in the courts of justice of the Territory of Montana."

Rule suspended, and bill passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Phelps, Spratt, and Mr. President—6.

Nays—None.

Mr. Merriman absent.

Mr. McCormick, chairman of Committee on Engrossment, reported C. J. R. No. 14 correctly engrossed.

H. J. R. No. 14 was taken up, read first time, and laid on the table for the present.

Mr. Phelps moved that H. B. No. 33, "An Act concerning fees of officers," be now taken up.

Mr. Bagg moved an amendment that it be taken up on Monday. Lost.

On motion of Mr. Bagg, H. B. No. 33, with the report of the Committee of the Whole, was laid on the table until Monday, at 10 o'clock.

Mr. McCormick, chairman of the Committee on Engrossment, reported the amendments to H. B. No. 3, H. B. No. 5, and H. B. No. 15, correctly engrossed.

Report received, and adopted.

H. B. No. 5, "An Act to authorize Solomon H. Miller and others, to keep a ferry or bridge on the Missouri river," was taken up and passed to third reading, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Spratt, and Mr. President—6.

Nays—None.

Mr. Phelps absent.

Mr. Leavitt introduced C. J. R. No. 15.

Read first, second and third time, and adopted, and ordered engrossed.

H. B. No. 3, "An Act to incorporate the Helena Water Company."

Rule suspended, bill read third time, and passed by the following vote:

Yeas—Messrs. Leavitt, McCormick, Merriman, Spratt, and Mr. President—5.

Nay—Mr. Bagg.

H. B. No. 15, "An Act to incorporate the Ten Mile and Last Chance Consolidated Water Ditch Company."

Read for information, and laid on the table.

Mr. McCormick, chairman of the Committee on Engrossment, reported H. B. No. 7 correctly engrossed.

H. B. No. 7, "An Act to authorize Paul B. Anthony and others, to establish a toll road from Helena to Ophir City."

Read third time, and passed by the following vote;

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—None.

Mr. McCormick, chairman of Committee on Engrossment, reported C. B. No. 62 correctly engrossed.

C. B. No. 62 was taken up, rule suspended, read third time by its title, and passed by the following vote;

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps Spratt, and Mr. President—7.

Nays—None.

Mr. Bagg moved the reconsideration of the vote on C. B. No. 56. Carried.

Mr. Bagg moved that the Council do not concur in the last amendment of the House, and ask them to recede from their amendment. Carried.

The following amendment offered by Mr. McCormick, was adopted:

That in the 8th line, strike out "six" and insert the word "eight."

Rule suspended, and resolution passed by the following vote:

All voting for its passage.

Chairman of the Committee on Engrossment, reported C. B. No. 72 correctly engrossed.

C. B. No. 72, "An Act to incorporate the Black Tail Deer Creek and Helena Wagon Road Company."

Rule suspended, bill read third time by its title, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—None.

On motion of Mr. Leavitt, the Council took a recess for fifteen minutes.

Council convened at 5 o'clock.

H. B. No. 35, "An Act declaratory of the rights of the public domain," was taken up, read third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—None.

Title objected to, and the following was adopted:

"An Act entitled an act to amend an act passed at the First Legislative Assembly of Montana Territory, entitled an act declaratory of the rights of occupants of the public domain, except as against the United States."

C. B. No. 73, "An Act defining the manner of assessing damages caused by corporations, roads, ditches, flumes and other companies," was taken up, rule suspended, and bill passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, Phelps, Spratt, and Mr. President—7.

Nays—none.

C. B. No. 71, "An Act to authorize Perry McAdow and others, to construct and maintain a toll road."

Read for information, and bill ordered engrossed as amended, for third reading by its title.

Petition from Territorial Treasurer. Read and referred to Committee on Ways and Means.

Mr. Merriman introduced C. J. R. No. 16. Read first and second time, and the following was the vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Merriman, and Phelps —5.

Nays—Mr. Spratt and Mr. President—2.

Mr. President changed his vote to yea.

Messrs. Bagg and McCormick changed their votes to nay.

Mr. President gave notice that he would move a reconsideration of the vote on Monday.

Council adjourned until Monday, April 9, at 10 o'clock.

ANSON S. POTTER

President.

R. J. MITCHELL,

Chief Clerk.

THIRTY-SIXTH DAY.

APRIL 9, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Mr. Merriman absent.

H. J. R. No. 15 was taken up, read third time, and adopted.

The following communication was received from the House:

HOUSE OF REPRESENTATIVES,
Monday, April 9, 1866.

To the President of the Council:

SIR—I am authorized to inform your honorable body of House proceedings on the 7th inst. The following bills passed, and are herewith transmitted:

H. B. No. 49, C. B. No. 69, C. B. No. 68, C. B. No. 46, C. J. R. No. 14, H. B. No. 38, and C. B. No. 54.

Also, C. B. No. 56 and C. B. No. 59, with amendments, which accompany said bill.

A substitute for C. B. No. 25.

C. B. No. 70, on its final passage, was lost.

The House concurred in Council amendments to H. B. No. 21, H. B. No. 5, H. B. No. 3, H. J. R. No. 12, and H. J. R. No. 14, and receded from their amendments to C. B. No. 56.

House refused to concur in your amendments to C. B. No. 7, H. B. No. 44, and H. B. No. 7, and herewith return the same and ask your body to recede.

I am also authorized to inform your honorable body of the passage of C. B. No. 72, with enclosed amendments; and C. B. No. 45, with amendments enclosed; and that C. B. No. 62 was read third time and lost; and that H. J. R. No. 14 was returned by the Governor unapproved; and the passage of H. J. R. No. 17, of C. B. No. 55, and C. B. No. 66, with a substitute, and C. J. R. No. 15.

The House concurred in the report made by the Conference Committee on C. B. No. 65.

That the House refuses to concur in Council amendments to H. B. No. 35.

And the passage of Joint Resolution No. 16, and the appointment on the part of the House, in compliance with said resolution, of Messrs. McCullough, Parrott, Maxwell, McElroy and Smith.

All of which is respectfully submitted.

JNO. F. RUCKER,
Chief Clerk.

Mr. Bagg, chairman of the Committee on Enrollment, reported the following bills correctly enrolled:

C. B. No. 68, C. B. No. 55, C. B. No. 46, C. B. No. 69, C. B. No. 53, C. B. No. 54, and C. B. No. 51.

Report received, and adopted.

On motion of Mr. McCormick, the Council went into Committee of the Whole, to consider H. B. No. 33.

On motion of Mr. Spratt, the Committee arose, with leave to sit again.

The following communication was received from the Governor:

EXECUTIVE OFFICE,
VIRGINIA CITY, April 9, 1866.

To the President of the Council:

SIR—I have the honor to inform the Council, that I have this

day approved and signed C. B. No. 69, entitled "An Act to amend an act to regulate proceedings in civil cases in the courts of justice of the Territory of Montana."

I have the honor to be
Your ob't servant,
THOMAS FRANCIS MEAGHER,
Acting Governor.

Mr. Phelps introduced C. J. R. No. 17. Read and laid on the table for further consideration.

On motion of Mr. Leavitt, the Council adjourned until 2 o'clock, P. M.

AFTERNOON SESSION.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Mr. Phelps absent.

H. B. No. 36, "An Act amendatory to the quartz law," was taken up, rule suspended, read third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, and Mr. President—3.
Nays—Messrs. McCormick and Spratt—2.
Mr. Phelps absent.

Mr. Bagg moved to reconsider the vote on the passage of said bill.

Mr. Bagg moved to lay the motion on the table. Carried.

Mr. Leavitt called to the chair.

Mr. Potter moved to reconsider the vote on the passage of C. J. R. No. 16. Carried.

Mr. Potter moved that the resolution be indefinitely postponed.

Mr. Potter moved that the vote on the passage of H. J. R. No. 15 be reconsidered. Carried.

On motion of Mr. Bagg, the H. J. R. No. 15 was indefinitely postponed.

Council went into Committee of the Whole, to consider H. B. No. 33.

Mr. Bagg moved that the Committee arise and report.

Council resumed their session.

The substitute to C. B. No. 7 and C. B. No. 59 was taken up, and the Council receded from their amendments.

H. B. No. 44 was taken up, and the Council receded from their amendments.

Call of House was made.

Call sustained, and the Sergeant-at-Arms was sent for the absent member, Mr. Phelps.

Sergeant-at-Arms reported that Mr. Phelps could not be found.

Mr. McCormick, chairman of Committee of the Whole, reported H. B. No. 33 back to the Council.

Report laid on the table.

On motion of Mr. Bagg, H. B. No. 33 was taken up, rule suspended, and the bill was put upon its final passage, and lost by the following vote:

Yeas—Mr. Spratt and Mr. President—2.

Nays—Messrs. Bagg, Leavitt, and McCormick—3.

Mr. Phelps absent.

Mr. Bagg moved to reconsider the vote on the passage.

Mr. Bagg moved to lay the motion on the table. Carried.

On motion of Mr. Leavitt, the Council took a recess of 10 minutes.

Council convened at 4½ o'clock.

Mr. McCormick moved that two be appointed, in conjunction with a like Committee of three from the House, to draft a Fee Bill. Lost.

The following communication was received:

EXECUTIVE OFFICE,
VIRGINIA CITY, April 9, 1866.

To the Hon. A. S. Potter:

SIR—I herewith return to the honorable Council, C. B. No. 53, "An Act to authorize B. F. Catlet to establish a ferry or bridge upon the Missouri river," unapproved, for the reason that I am not possessed of any evidence that goes to show that the bridge or ferry in question is a public necessity, but on the contrary, from reliable information, I am led to believe that it is not a public benefit, but would work grievous wrong to the traveling public of our Territory, and I am decidedly and positively opposed to every bill and charter which would in any way obstruct or impede the private and individual enterprise which shall throw open our Territory to the merchants and freighters of the Pacific and Eastern States; and I respectfully take this opportunity to say, that my approval of the Hell Gate and Blackfoot toll road is, up to this date, the only Act in connection with the Legislature, of which my conscience and judgment upon mature reflection disapproves and ignores, and I beg respectfully but emphatically, to place upon record, if you will permit it, my protest against any and every Act which tends to obstruct instead of facilitating and encouraging the commercial enterprise which our Territory requires, and which being liberalized, will enable our miners and farmers happily to prosecute their labors.

I remain, sir,
Very respectfully,
Your ob't servant,
THOMAS FRANCIS MEAGHER,
Acting Governor.

Substitute to C. B. No. 66 was taken up, and on motion of Mr. Bagg, the substitute was rejected.

C. B. No. 65 was taken up, and ordered engrossed.

On motion of Mr. Phelps C. B. No. 19 was taken from the table.

On motion of Mr. Phelps, the Council went into Committee of the Whole, to consider said bill.

Mr. Phelps in the chair.

Committee of the Whole took a recess until 7½ o'clock.

Night Session.

Council convened at 7½ o'clock.

Mr. Potter moved the Committee arise and report progress.

Mr. Bagg, chairman of the Committee on Enrollment, reported C. J. R. No. 15 and C. B. No. 56, correctly enrolled.

C. B. No. 70, "An Act to amend an act concerning divorce and alimony," was taken up with amendments, which were concurred in by the Council.

C. B. No. 72, "An Act to incorporate the Black Tail Deer and Helena Wagon Road Company." Taken up with the amendments of the House.

Council concurred in House amendments.

House substitute to C. B. No. 25 was taken up; the following amendments were adopted:

Strike out section 1st and insert "that so much of an act concerning lost goods and estrays, approved January 11, 1865, as refers to estrays, be and the same is hereby repealed."

Strike out all of section 2.

Rule suspended, bill read third time by its title, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Phelps, Spratt, and Mr. President—6.

Nays—None.

C. B. No. 45, "An Act to incorporate the Flat Head River Ferry Company."

Council concurred in House amendments to C. B. No. 53, "An Act to authorize B. F. Catlet and others, to construct and maintain a ferry on the Missouri river." Bill was taken up, with the objections of the Governor.

Mr. Bagg moved that the bill be reconsidered.

The question being put—Shall the bill pass notwithstanding the Governor's objections? the bill passed by the following two-thirds vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Phelps, Spratt, and Mr. President—6.

The bill having received a two-thirds vote was declared passed.

H. J. R. No. 15 was taken up, read for information, and laid on the table for the present.

H. B. No. 49, "An Act to authorize the Territorial Auditor to fund the territorial indebtedness." Read first time, and referred to Committee on Ways and Means.

Mr. Spratt offered the following resolution:

Resolved, By the Council, the House concurring, that a Committee of two be appointed for the purpose of fixing the license law.

The President appointed Messrs. Bagg and Leavitt on said Committee.

On motion of Mr. Phelps, the Council adjourned until 10 o'clock, to-morrow morning.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

THIRTY-SEVENTH DAY.

APRIL 10, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—All the members in their seats.

Journal of previous day read and approved.

Mr. McCormick, chairman of the Committee on Engrossment, reported C. B. No. 71 and C. B. No. 65 correctly engrossed.

Mr. Phelps, chairman of the Committee of the Whole, reported C. B. No. 19 back to the Council, with amendments.

Report received and adopted, and bill ordered engrossed.

The following communications were received from the Governor:

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
VIRGINIA CITY, April 10, 1866.

To the Hon. President of the Council:

SIR—I have the honor to inform the Council that I have this day read and approved the following Council Bills:

C. B. No. 68, "An Act to repeal an act entitled an act to incorporate the Madison River Ditch Company."

C. B. No. 55, "An Act entitled an act creating certain officers in the Territory of Montana, declaring to whom resignations shall be made, when offices shall be deemed vacant, and the manner of filling vacancies."

Also, I have the honor to inform the Council that I have signed

C. B. No. 70, entitled "An Act to amend an act entitled an act concerning divorce and alimony."

I have the honor to be,

Your obedient servant,

THOMAS FRANCIS MEAGHER,

Acting Governor.

EXECUTIVE OFFICE, VIRGINIA CITY, April 10, 1866.

To the Hon. President of the Council:

SIR—I herewith transmit to the Council C. B. No. 46, entitled "An Act to incorporate the Prickly Pear and Missouri River Ferry Company."

I object to it, in the first place, because, from personal observation and experience, I see no necessity whatever of establishing such a ferry.

In the second place, it leaves the toll rates undefined, and to be determined by the county commissioners of Edgerton county, and this being an indefinite power to said commissioners, I consider I would be acting blindly towards the public interest, were I to concede such a privilege.

I regret, sincerely and extremely, that I feel compelled to veto any bill which comes from a Legislative Assembly in whose intelligence and patriotism I have the fullest confidence, and I trust I shall be pardoned in any error, which, in conflicting with the action of the Legislature, I may occasionally commit.

I have the honor to be,

Your obedient servant,

THOMAS FRANCIS MEAGHER,

Acting Governor.

EXECUTIVE OFFICE, M. T.,
VIRGINIA CITY, April 10, 1866.

To the Hon. President of the Council:

SIR—I hereby return to the Council C. B. No. 56, entitled "An Act to enable road, ditch, manufacturing, and other companies, to become bodies corporate," respectfully disapproved.

I disapprove of the bill because it involves interests of such a vital character to the industry and enterprise of the people of our Territory, as should not be touched until the Territory is more matured.

I have kept steadily and clearly in view the fact that the Legislature now in session, intelligently and patriotically acting, as it has done, is, owing to an imperfect apportionment, and other circumstances, over which it had no control whatever, somewhat defective in its representative character, and such being my conclusion, I have considered it my duty to approve of no bill which the immediate necessity of the Territory does not demand.

The bill I now return disapproved is too permanent in its designed operation for me to do otherwise than veto it, if my veto transfers it to the consideration of the Legislature which will assemble next fall under more authoritative auspices.

I have the honor to be,

Very respectfully,

Your obedient servant,

THOMAS FRANCIS MEAGHER,

Acting Governor.

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
VIRGINIA CITY, April 10th, 1866.

To the Hon. President of the Council:

SIR—I have the honor most respectfully to inform the Council that I have disapproved of "An Act to incorporate the Big Blackfoot and Fort Benton Wagon Road Company."

I decidedly object to this bill. Having been over the same road, I am of the opinion that the freighters and merchants can make a good road for themselves, and that a privilege to any party to construct a road between Big Blackfoot and Fort Benton would result in vexation and embarrassment to the public, without serving the Territory in the least.

I have the honor to be,

Your ob't servant,

THOMAS FRANCIS MEAGHER,

Acting Governor.

Mr. Bagg, chairman of the Committee of the Whole on House substitute to C. B. No. 66, reported the same back to the Council.

On motion of Mr. Spratt, the substitute was referred to Conference Committee, consisting of Messrs. Spratt and Phelps.

The following resolution was offered by Mr. Bagg, which was adopted:

Resolved, That the Committee of Conference on the license law, composed of Messrs. Spratt and Phelps, to confer with the House Committee on said subject, be instructed to agree to the provisions which shall become amendatory of the license law that are now embodied in C. B. No. 66, and shall not agree to any other except it be in relation to some provision of the present license law, to which the said C. B. No. 66 does not refer, or else be relieved of their duties.

The following communication was received from the House:

HOUSE OF REPRESENTATIVES,
Tuesday, April 10th, 1866.

To the President of the Council:

SIR—I have the honor to communicate to you the proceedings of the House this day.

H. B. No. 56 passed, H. B. No. 43 passed, and C. B. No. 53 passed, notwithstanding the Governor's veto.

The House concurred in amendments to C. B. No. 25.

Also, the introduction of H. B. No. 57, and H. B. No. 58.

The House appointed the following Conference Committees, and ask your honorable body to appoint a like Committee to confer with them.

On C. B. No. 71, Messrs. McCullough and Maxwell.

On H. B. No. 35, Messrs. Mimms, Maxwell, and Parrott.

On H. B. No. 7, Messrs. Maxwell, Parrott, and Weed.

We also transmit, for your consideration, H. B. No. 3 and H. B. No. 5, with the Governor's objections.

These bills were successively reconsidered by the House, and, by a unanimous vote, were passed, notwithstanding the Governor's objections.

Also, C. B. No. 72 has passed the House, as amended.

Respectfully submitted,

JOHN F. RUCKER, *Chief Clerk.*

H. B. No. 7 was taken up, and the Council refused to recede from their amendments.

H. J. R. No. 18 was taken up, read third time, and passed.

C. J. R. No. 19 was taken up, read third time, and passed.

H. B. No. 35 was taken up, and Council refused to recede from their amendments.

H. B. No. 38 was taken up, read first and second time, rule suspended, read third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, Phelps, and Spratt—4.

Nays—Mr. McCormick and Mr. President—2.

H. J. R. No. 18 was taken up, read first, second and third time, and passed, with the following amendments:

Title amended to read "Saw Dust Joint Resolution," and add the words, "And twenty-five cents for saw dust on the steps of the House."

On motion of Mr. Leavitt, the Council adjourned until 2 o'clock, P. M.

AFTERNOON SESSION.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—all the members in their seats.

On motion of Mr. Leavitt, H. J. R. No. 17 was taken from the table.

Read and amended, as follows:

After the figures 1866, in 14th line, insert the words, "Until the close of the session," and strike out all in relation to chaplain.

Read third time, and passed by the following vote:

Yeas—Messrs. Bagg, McCormick, Phelps, Spratt, and Mr. President—5.

Nay—Mr. Leavitt.

Mr. Leavitt gave notice that he would move to reconsider the vote at some future time.

Mr. McCormick moved to reconsider now, and lay that motion on the table. Carried.

C. B. No. 56 was taken up, with the Governor's objections.

Mr. Bagg moved to reconsider the bill.

The question being put, "Shall this bill pass, notwithstanding the Governor's objections?"

Yeas and nays were called, which were—

Yeas—Messrs. Bagg, McCormick, Phelps, and Spratt—4.

Nays—Mr. Leavitt, and Mr. President—2.

Having received a two-thirds vote, the bill was declared passed.

On motion, Mr. Merriman was granted six days' leave of absence.

H. B. No. 46 was taken up and reconsidered, with the Governor's objections.

Yeas and nays called, which were—

Yeas—Messrs. Bagg, Leavitt, McCormick, Phelps, Spratt, and Mr. President—6.

Nays—None.

Having received a two-thirds vote, the bill was declared passed.

H. B. No. 36 was taken up, and the Council receded from their amendments.

C. B. No. 71 was taken up, and the Council receded from all their amendments, except the amendment to section 3.

H. B. No. 55 was taken up, read first time, rule suspended, read third time by its title, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Spratt, and Mr. President—5.

Nays—None.

Mr. Phelps absent.

H. B. No. 56 was taken up, read first time, rule suspended, read third time by its title, and bill passed by the following vote:

Yeas—Messrs. Leavitt, Phelps, Spratt, and Mr. President—4.

Nay—Mr. Bagg.

Mr. McCormick absent.

H. B. No. 43 was taken up, rule suspended, read third time by its title, and bill passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Phelps, Spratt, and Mr. President—6.

Nays—None.

Mr. Bagg, chairman of Committee on Enrollment, made the following report:

MR. PRESIDENT—The chairman of the Committee on Ensollment begs leave to report the following numbered bills introduced into the Council, as well as joint resolutions and memorials, which have passed the Legislative Assembly, and which have been presented by me to the Governor for his signature, leaving the same at his office, on the day of the month which is inserted in the list below.

Most respectfully submitted,

CHAS. S. BAGG.

Council Bills.	No.	Date.	
" "	2	March 17th,	1866.
" "	3	" "	"
" "	32	" "	"
" "	34	" 20th,	"
" "	4	" 21st,	"
" "	17	" 23rd,	"
" "	10	" 24th,	"
" "	18	" "	"
" Memorial,	1	" 27th,	"
" "	2	" "	"
" Bills,	49	" 28th,	"
" "	24	" "	"
" "	43	" 30th,	"
" "	52	" "	"
" "	61	" "	"
" "	33	" "	"
" "	9	" 31st,	"
" "	63	April 3rd,	"
" "	20	" 6th,	"
" "	57	" 3rd,	"
" "	13	" 5th,	"
" "	21	" "	"
" "	47	" "	"
" "	68	" 9th,	"
" "	51	" "	"
" "	54	" "	"
" "	54	" "	"
" "	55	" "	"
" "	46	" "	"
" "	53	" "	"
" "	69	" "	"
" "	56	" 10th,	"
" "	45	" "	"
" "	72	" "	"
" "	70	" "	"
" "	1	" "	"

(Signed) CHAS. S. BAGG,

Chairman of the Committee on Enrollment.

H. B. No. 48 was taken up, read first time, and rejected.

Mr. Bagg, chairman of the Committee on Enrollment, reported C. B. No. 25 and C. B. No. 59 correctly enrolled.

H. B. No. 53 was taken up, rule suspended, read third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Phelps, Spratt, and Mr. President—6.

Nays—none.

C. B. No. 54 was taken up, with the Governor's communication.

On motion of Mr. McCormick, the bill was reconsidered.

The question being put, "Shall this bill pass, notwithstanding the Governor's objections?" the bill was lost, there not being a two-thirds vote.

Voting for—Messrs. Bagg, Leavitt, and Phelps—3.

Against—Messrs. McCormick, Spratt, and Mr. President—3.

The following resolution was offered by Mr. Leavitt, and adopted:

Resolved, That the communication sent from the House of Representatives to the Council, enclosing House Bills Nos. 3 and 5, with the objections of the Governor to said bills, be returned forthwith to the House, with the request that their report be so amended as to strike out the words "well founded," before the word "objections."

C. B. No. 19 was taken up, rules suspended, read third time, and passed by the following vote:

Yeas—Messrs. Leavitt, McCormick, Phelps, and Spratt—4.

Nays—Mr. Bagg, and Mr. President—2.

The President appointed the following Committee of Conference, to consider C. B. No. 71, H. B. No. 35, and H. B. No. 7: Messrs. Bagg, Phelps, and Spratt.

H. J. R. No. 18 was taken up, and the Council receded from their amendments.

H. J. R. No. 17 was taken up, and the Council receded from their amendments.

H. B. No. 51, "An Act to tax the Chinese population of Montana Territory."

Read first time, and rejected.

C. B. No. 12, "An Act to construct a road from Rhea City to Pacific City," was taken from the table, and the Council concurred in the amendments of the House.

Bill ordered enrolled.

H. B. No. 3 was taken up, with the objections of the Governor.

Bill reconsidered. The question being put—Shall this bill pass, notwithstanding the Governor's objections?—the bill passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Phelps, Spratt, and Mr. President—6.

Having received a two-thirds vote, the bill was declared passed.

H. B. No. 5 was taken up, with the Governor's objections, and reconsidered.

The question being put—Shall this bill pass, notwithstanding the Governor's objections?—Yeas and nays called, which were—

Yeas—Messrs. Bagg, Leavitt, McCormick, Phelps, Spratt, and Mr. President—6.

The bill, having received a two-thirds vote, was declared passed.

Mr. McCormick introduced C. J. R. No. 18, which was read first, second and third time, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Phelps, and Spratt —5.

Nay—Mr. President.

Council adjourned until 7½ o'clock.

NIGHT SESSION.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—all the members in their seats.

C. B. No. 46 was taken up, with the Governor's objections, and reconsidered.

And question being put—Shall this bill pass, notwithstanding the Governor's objections?—the bill, passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, Phelps, Spratt, and Mr. President—6.

Nays—none.

The bill, having received a two-thirds vote, was declared passed.

On motion of Mr. Phelps, the Council adjourned until 10 o'clock, A. M., to-morrow.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

THIRTY-EIGHTH DAY.

APRIL 11, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—All the members in their seats.

Journal of previous day read and approved.

Mr. Leavitt introduced C. J. R. No. 20.

Resolution read first, second, and third time, and adopted.

Mr. McCormick, chairman of the Committee on Ways and Means, made the following report:

The Committee on Ways and Means, to whom was referred H. B. No. 49, "An Act authorizing the Auditor to fund the territorial debt," have had the same under consideration, and beg leave to report the same back with the following amendments:

In 4th line, in section 1, after the word "in," insert "at the option of the holder." Also, in same section, in line 7, after the word "Treasurer," strike out the words and figures "previous to the first day of January, 1866."

Mr. Bagg moved to reconsider the vote on the passage of H. B. No. 48, "An Act to prevent pasturing stock on winter grass lands in Montana Territory."

Mr. McCormick offered the following amendments, which were adopted:

"That the county commissioners of Deer Lodge county, Montana Territory, have the right and authority to regulate and define what shall be winter grass land, and what shall be summer grass land, in said Deer Lodge county."

Title objected to.

And amended by inserting between the words "in" and "Montana," "Deer Lodge county."

Bill passed, as amended, by the following vote:

Yeas—Messrs. Bagg, Leavitt, McCormick, and Spratt—4.

Mr. Phelps and Mr. President excused.

Mr. Bagg, chairman of Committee on Enrollment, reported C. B. No. 25 and C. B. No. 65 correctly enrolled.

H. B. No. 49 was taken up, "An Act to authorize the Territorial Auditor to fund the territorial indebtedness."

Bill read, and indefinitely postponed.

Mr. Bagg introduced C. J. R. No. 20, which was read first, second, and third time, and passed.

Committee appointed to wait on the Governor, as by Resolution No. 20, were Messrs. Bagg and Leavitt.

Special Committee, to whom was referred C. J. R. No. 22, "Giving extra compensation," reported the same back, and recommend its passage.

Report received and adopted.

Resolution passed.

Council adjourned until 2 o'clock, P. M.

Afternoon Session.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Messrs. Phelps and Leavitt absent.

Recess of half an hour.

Council convened at 5 o'clock.

Mr. Bagg, by consent, introduced C. B. No. 75, "The general incorporation act."

Read first and second time by its title, rule suspended, read third time, and passed by the following vote:

Yeas—Messrs. Bagg, McCormick, Phelps, Spratt, and Mr. President—5

Mr. Leavitt excused.

Council adjourned until 8 o'clock this evening.

Night Session.

Council met pursuant to adjournment, Mr. President in the chair.

Roll called—Absent, Messrs. Leavitt and McCormick.

Mr. Bagg introduced C. J. R. No. 23, "To appoint a Joint Committee to wait upon the Governor."

Resolution adopted.

Committee appointed by the Council was — The President, Anson S. Potter, and W. J. McCormick.

The Council refused to concur in the amendments of the House to C. B. No. 35, and instructed the Clerk to ask the House to recede.

C. J. R. No. 18 was taken up, with the amendments of the House, and the Council refused to concur in the amendments.

On motion of Mr. McCormick, the Council adjourned until 10 o'clock, A. M., to-morrow.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

THIRTY-NINTH DAY.

APRIL 12, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Mr. Leavitt absent.

Journal of previous day read and approved.

The following communication was received from the House:

HOUSE OF REPRESENTATIVES,
April 11, 1866.

MR. PRESIDENT—I have the honor of submitting to your honorable body, the proceedings in the House this day.

C. B. No. 46, "An Act to incorporate the Prickly Pear and Missouri River Ferry Company."

The vote was taken on its passage notwithstanding the Governor's veto, and resulted as follows:

Voting for—7, against—4; the bill not receiving a two-thirds vote, was declared lost.

Passage of C. J. R. No. 18, with amendments.

The House adopted the Council amendments to section 3 of C. B. No. 71, and

The passage of C. J. R. No. 10.

The House refused to concur in the amendments offered by the Council to H. B. No. 35, and respectfully ask the Council to recede from the same.

C. B. No. 56 failed to pass over the Governor's veto, vote being—Yeas—5; nays—7.

And the passage of C. B. No. 19.

Respectfully submitted.

JOHN F. RUCKER, *Chief Clerk.*

The following communications were received from the Governor:

EXECUTIVE OFFICE, MONTANA TERRITORY,
Virginia City, April 12, 1866.

To the Hon. President of the Council:

SIR—I have the honor to notify the Council that I have this day approved and signed Council Bill No. 71, entitled "An Act to authorize Perry McAdow, Richmond T. Gallespie and Alexander Davis to establish and maintain a toll road, and I take great pleasure in approving this Act, as it designs to open a road through a wild and unfrequented portion of our Territory.

Such acts, although conferring private franchises, are, in my opinion, public benefits.

I have the honor to be,
Very truly, your obedient servant,
THOMAS FRANCIS MEAGHER,
Acting Governor.

EXECUTIVE OFFICE, MONTANA TERRITORY,
VIRGINIA CITY, April 12, 1866.

To the Hon. President of the Council:

SIR—I have the honor to inform the Council, that I have this day approved and signed C. B. No. 72, entitled "An Act to incorporate the Black Tail Deer and Helena Wagon Road Company."

Also, C. B. No. 25, entitled "An Act to amend an act entitled an act concerning lost goods and estrays."

No. 65, entitled "An Act to amend an act entitled an act to incorporate Virginia City, and to repeal certain parts of said act."

No. 59, entitled "An Act to authorize the several county commissioners of the several counties."

No. 7, "An Act to authorize John S. Rockfellow and others, to construct and maintain a toll road by way of Hot Springs and Crow Creek from Virginia City to Helena."

I have the honor to be,
Your obedient servant,
THOMAS FRANCIS MEAGHER,
Acting Governor.

EXECUTIVE OFFICE, MONTANA TERRITORY,
Virginia City, April 12, 1866.

To the Hon. President of the Council:

SIR — I have the honor respectfully to return to the Council' Council Bill No. 12, entitled "An Act to establish a toll road from Rhea City to Pacific City, in Deer Lodge county," disapproved, because, after anxious inquiry and investigation, I have failed to find any necessity for establishing such a road.

I have the honor to be,

Very truly,

Your obt. servant,

THOMAS FRANCIS MEAGHER,

Acting Governor.

EXECUTIVE OFFICE, MONTANA TERRITORY,
VIRGINIA CITY, April 12, 1866.

To the Hon. President of the Council:

SIR—I herewith respectfully return to the Council, Council Bill No. 45, entitled "An Act to incorporate the Flat Head River Ferry Company," disapproved.

I regret that I feel compelled to disapprove of this Act because, in section 2, it gives a monopoly to the parties applying for the same, of the river for a mile on either side of the proposed ferry, and because, in section 5, it leaves the rates of toll or ferryage undefined.

I have the honor to be,

Very respectfully,

THOMAS FRANCIS MEAGHER,

Acting Governor.

EXECUTIVE OFFICE, TERRITORY OF MONTANA,
Virginia City, April 12, 1866.

To the Hon. President of the Council:

SIR—I consider it my duty to return to the Council, Council Bill No. 51, entitled "An Act to authorize James Talbot and

J. N. Rice to establish a ferry on the Missouri river, at or near the mouth of the Muscleshell river opposite Kerchival City."

I respectfully return this Bill disapproved, for the reason that, after much inquiry and reflection, I have failed to discover any necessity existing at present for the ferry in question.

I have the honor to be,

Your ob't servant,

THOMAS FRANCIS MAGHER,

Acting Governor.

Mr. Bagg, chairman of the Committee on Enrollment, reported C. B. No. 71 correctly enrolled.

The Council concurred in the amendments of the Conference Committee on C. B. No. 66.

Mr. Spratt introduced Joint Memorial No. 4, which was adopted.

Mr. Bagg introduced J. R. No. 24. Read first time, rule suspended, and passed.

C. B. No. 19, "An Act regulating the fees of officers," was taken up with the House amendments, which the Council refused to concur in by the following vote:

Yeas—Messrs. Phelps, Spratt, and Mr. President—3.
Nays—Messrs. Bagg, Leavitt, and McCormick—3.

H. B. No. 19 was taken from the table, "An Act to incorporate the Ten Mile and Last Chance Consolidated Water Ditch Company."

And on motion of Mr. Bagg, the bill was laid on the table for further consideration.

On motion of Mr. Bagg, the Council adjourned to 2 o'clock, P. M.

Afternoon Session.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Mr. Leavitt absent.

H. B. No. 59 was taken up from the table, read first time, rule suspended, read third time, and passed April 12, 1866.

On motion of Mr. McCormick, Council took a recess until 7½ o'clock.

Night Session.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—Mr. Phelps absent.

C. B. No. 51, "An Act to authorize James Talbot and J. N. Rice to construct and maintain a ferry on the Missouri river at the mouth of the Muscleshell river, opposite Kerchival City," was taken up, with the Governor's communication.

And on motion of Mr. McCormick, the bill was reconsidered. The question being put, "Shall this bill pass, notwithstanding the objections of the Governor?" the bill was lost by the following vote:

Yeas—None.

Nays—Messrs. Bagg, Leavitt, McCormick, Spratt, and Mr. President—5.

Mr. Phelps absent.

The bill not having received a two-thirds vote, was declared lost.

C. B. No. 12, "An Act to authorize J. M. Maynard and others, to construct and maintain a toll road from Rhea City to Pacific City in Deer Lodge county," was taken up, with the Governor's communication.

And on motion of Mr. McCormick, the bill was reconsidered. The question being put, "Shall this bill pass, notwithstanding the Governor's objections?" the bill passed.

Yeas—Messrs. Bagg, Leavitt, McCormick, Spratt, and Mr. President—5.
Nays—None.
Mr. Phelps absent.

The bill having received a two-thirds vote, was declared passed.

C. B. No. 45, "An Act to incorporate the Flat Head River Ferry Company," was taken up with the Governor's objections.

And on motion of Mr. McCormick, the bill was reconsidered. Question being put—"Shall this bill pass, notwithstanding the Governor's objections," bill passed by the following vote:

Ayes—Messrs. Bagg, Leavitt, McCormick, and Spratt—4.
Nay—Mr. President.

The bill having received a two-thirds vote was declared passed.

H. B. No. 38, "An Act to incorporate the Eldorado and Diamond City Wagon Road Company," was taken up, with the Governor's communication.

And on motion of Mr. McCormick, the bill was reconsidered.

The question being put—"Shall this bill pass, notwithstanding the Governor's objections?" the bill passed.

Yeas—Messrs. Bagg, Leavitt, McCormick, Spratt, and Mr. President—5.
Nays—None.
Mr. Phelps absent.

The bill having received a two-thirds vote was declared passed.

The following Conference Committee was appointed on C. J. R. No. 18:

Messrs. McCormick and Leavitt.

The following Conference Committee was appointed on C. B. No. 19, the Fee Bill:

Messrs. McCormick and Phelps.

On motion of Mr. Leavitt, the Council took a recess for 15 minutes.

Council convened at 8½ o'clock.

Mr. Bagg, chairman of the Committee on Enrollment, reported C. B. No. 66 correctly enrolled.

H. J. R. No. 4 was taken from the table, and, on motion of Mr. Bagg, the resolution was adopted.

H. J. R. No. 9 was taken from the table, amended and passed.

C. B. No. 50, "An Act to incorporate the Capital Addition Town Company," was taken from the table, read second time, rule suspended, read third time by its title, and passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, and Spratt—3.
Nay—Mr. President.
Messrs. Phelps and McCormick absent.

C. B. No. 48, "An Act to incorporate the Fairweather District Bedrock Fluming and Mining Company," was taken from the table and indefinitely postponed.

C. B. No. 44, "An Act to incorporate the Columbia River and Portage Company," was taken from the table, and indefinitely postponed.

H. B. No. 9, "An Act authorizing Joseph V. Stafford and John

R. Stafford to establish a ferry on the Missouri river," was taken from the table, and indefinitely postponed.

C. B. No. 39, "An Act to incorporate the Summit Gulch Mining Company," was taken from the table, and indefinitely postponed.

C. B. No. 74, "An Act to repeal an act to incorporate the City of Virginia," was indefinitely postponed.

C. B. No. 36, "An Act to incorporate the Kerchival Town Association," was taken from the table, and indefinitely postponed.

H. B. No. 15, "An Act to incorporate the Ten Mile and Last Chance Consolidated Water Ditch Company," was taken from the table, and indefinitely postponed.

C. B. No. 76, "An Act concerning malfeasance in office," introduced by Mr. Spratt, was read first time, rule suspended, and bill passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, Spratt, and Mr. President—4.
Nays—None.

On motion of Mr. Bagg, the Council adjourned until 10 o'clock A. M., to-morrow.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

FORTIETH DAY.

APRIL 13, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called—all the members in their seats.

Journal of previous day read and approved.

Mr. Bagg, chairman of Committee on Enrollment, reported C. J. R. No. 4 correctly enrolled.

H. J. M. No. 2 was taken up, read first time, and referred to Committee on Judiciary.

The following report was received from the Committee of Conference:

MR. PRESIDENT—The Committee of Conference upon C. J. R. No. 18 beg leave to report that the House agree to recede from their amendment, and agree to the sum of five hundred dollars, in lieu of their said amendment.

W. J. MCCORMICK, *Chairman.*

Report received, and adopted.

Also, the following:

MR. PRESIDENT—The Committee of Conference on C. B. No. 19 met in the Hall of the House of Representatives after the adjournment of said House, and after a long conference upon

said bill, they failed to agree upon any compromise on said bill, and the amendments of the House.

The Committee on the part of the House failing to agree among themselves.

W. J. McCORMICK, *Chairman.*

Report received, and adopted.

The following communication was received from the House:

HOUSE OF REPRESENTATIVES,
April 13, 1866.

To the Hon. President of the Council:

SIR—I herewith transmit—

C. J. R. No. 18, passed, as amended by the Conference Committee.

Also, C. B. No. 12, which passed, notwithstanding the Governor's veto, by the following vote: Yeas—10; Nays—2. Absent—2.

Also, the passage of C. J. R. No. 22, as amended.

Also, the passage of Joint Memorials Nos. 1 and 2.

Also, C. J. R. No. 24.

Also, the passage of C. B. No. 76.

Respectfully submitted.

JOHN F. RUCKER, *Chief Clerk.*

Mr. Spratt introduced Joint Memorial No. 5. Read, and adopted.

The following communications were received from the Governor:

EXECUTIVE OFFICE, MONTANA TERRITORY,
VIRGINIA CITY, April 13, 1866.

To the President of the Council:

SIR—I have the honor respectfully to notify the Council of my approval of Joint Resolution No. 19, and shall feel much gratified

in complying with the request it contains. I shall have the laws therein referred to, published in the "Montana Democrat," and also in the "Montana Radiator," and take such steps as I believe will render the enactments of the present Legislature accessible to the people of our Territory.

I have the honor to be,

Very truly, your ob't servant,

THOMAS FRANCIS MEAGHER,
Acting Governor.

EXECUTIVE OFFICE, MONTANA TERRITORY,
VIRGINIA CITY, April 13, 1866.

To the Hon. President of the Council:

SIR—I have the honor respectfully to inform the Council that I have this day approved and signed—

Council Bill No. 66, "An Act to amend an act entitled an act concerning licenses, approved February 9th, 1865."

And also, Joint Resolution No. 4, "Asking for a United States branch mint to be located in this Territory."

Also, I heartily approve Joint Resolution, "Condemning the returns of elections from the counties of Choteau and Missoula," and inasmuch as I was the first to detect and publish their fraudulent returns, it is a peculiar gratification to me to have such a sanction to my action in the premises as the Joint Resolution confers. No citizen of any party in the Territory can do otherwise than reprobate a falsification of the will and vote of the people.

I have the honor to be,

Very truly, yours,

THOMAS FRANCIS MEAGHER,
Acting Governor.

EXECUTIVE OFFICE, MONTANA TERRITORY,
VIRGINIA CITY, April 13, 1866.

To the Hon. President of the Council:

SIR—For the information of the Council I have the honor to state that I have this day approved and signed House Joint Memorial No. 1, "Remonstrating against the passage by Congress of any act providing for the sale of the mineral lands of the United States."

Very respectfully,

Your obt. servant,

THOMAS FRANCIS MEAGHER,
Acting Governor.

The following communication was received from the House:

HOUSE OF REPRESENTATIVES,
April 13, 1866.

MR. PRESIDENT—I have the honor to inform your honorable body of the passage of C. J. R. No. 27.

Also, the House has appointed a Committee, consisting of Messrs. Hanna, Maxwell, and Smith, and ask your honorable body to appoint a like Committee, to wait on His Excellency the Governor, and communicate to him the fact that the two Houses will adjourn at 6½ P. M., and ask him if he has any further communication to make.

Respectfully,

JOHN F. RUCKER, *Chief Clerk.*

C. J. R. No. 22 was taken up, and the Council concurred in the House amendments.

Mr. Phelps, acting chairman of the Committee on Enrollment, reported C. J. R. No. 22 correctly enrolled.

On motion of Mr. McCormick, the vote on the passage of H. B. No. 9 was reconsidered.

Rule suspended, bill read third time by its title, and passed by the following vote:

Yeas—Messrs. Leavitt, McCormick, and Spratt—3.
Nay—Mr. President.

Messrs. Bagg and Phelps absent.

On motion of Mr. McCormick, the vote on the passage of H. B. No. 15 was reconsidered.

Rule suspended, and bill passed by the following vote:

Yeas—Messrs. Leavitt, McCormick, and Spratt—3.
Nay—Mr. President.

Messrs. Bagg and Phelps absent.

Mr. Spratt, by consent, introduced C. J. R. No. 25, in regard to the adjournment of the Council at 6½ o'clock.

Read first time, and passed.

Mr. Spratt intrduced C. J. R. No. 26. Read, and adopted.

Mr. Leavitt offered the following resolution, which was adopted:

Resolved, That we hereby extend to the proprietor of the "Montana Post," and its distinguished editor, our sincere thanks for the labor and care they have bestowed, and the faithfulness they have shown in preparing for our convenience and the public interests, an accurate record of the legislative proceedings that have taken place in our Chamber during the present session.

The following resolution was offered by Mr. McCormick, and adopted:

Resolved, By the Council, that we hereby tender to the distinguished editor of the "Montana Democrat," Major John P. Bruce, our thanks for the labor and zeal manifested by him in

publishing correct and faithful reports of the proceedings of the Council.

Mr. Leavitt introduced C. J. R. No. 27, which was read first time, and adopted.

C. B. No. 76, C. J. R. No. 18, C. J. R. No. 24, C. B. No. 50, C. B. No. 74, C. B. No. 66, and C. B. No. 75, were reported correctly enrolled.

H. J. R. No. 20 was taken up, and was indefinitely postponed.

H. J. R. No. 21 was taken up, read first time, and laid on the table for the present.

Mr. McCormick moved that a Committee of two be appointed, to act with a Committee of three from the House to act in conjunction with them, to wait upon the Governor, and communicate to him the fact that the two Houses will adjourn at 6½ P. M., and ask if he has any further communication to make.

Mr. Leavitt and Mr. President were appointed as such Committee.

H. B. No. 60, "An Act to amend the fee law," was taken up.

On motion of Mr. Leavitt, the bill was rejected.

By unanimous consent, C. J. R. No. 25 was rescinded.

Mr. Spratt moved that a Committee of two be appointed by the Council, to act with a like Committee of three from the House, to confer together in relation to the bills now in the hands of His Excellency the Governor.

President appointed as said Committee, Messrs. Spratt and Leavitt.

On motion, Council adjourned until 9 o'clock, A. M., to-morrow.

A. S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

FORTY-FIRST DAY.

APRIL 14, 1866.

Council met pursuant to adjournment. Mr. President in the chair.

Roll called.

Journal of previous day read and approved.

The following communication was received from the Governor:

EXECUTIVE OFFICE, MONTANA TERRITORY,
VIRGINIA CITY, April 14, 1866.

To the Hon. President of the Council:

SIR—I have the honor most respectfully to return to the Council, Council Bill No. 75, entitled "The General Incorporation Act," because I object to any bill which goes to restrict and interfere with individual enterprise and activity.

This individual force and adventure has been not only the most conspicuous feature of the American character, but it has been actually and positively the vital element to which our country owes its expansion and decided power.

Montana has already vindicated this conviction; and possessed as I am with a full faith in the individual intelligence and physical activity of the American citizen, I shall not, until I lose that faith, approve of any bill or proposition which substitutes corporations or monopolies for the personal impetus and power which have been the grand feature of the American character as I have said, and what all must admit to have been, in every department of our republican life, the vitality of the nation.

I have the honor to be,
Very truly, your obedient servant,
THOMAS FRANCIS MEAGHER,
Acting Governor.

On motion of Mr. Leavitt, C. B. No. 75 with the Governor's communication, was taken up, and the bill was reconsidered.

The question being put—"Shall the bill pass, notwithstanding the Governor's objections?" bill passed by the following vote:

Yeas—Messrs. Bagg, Leavitt, Phelps, Spratt, and Mr. President —5.

Nays—None.

The following communication was received from the Governor:

EXECUTIVE OFFICE, MONTANA TERRITORY,
VIRGINIA CITY, April 14, 1866.

To the Hon. President of the Council:

SIR—I have the honor to inform the Council that I have this day approved and signed House Bill No. 9, entitled "An Act authorizing James R. Stafford and John R. Stafford to establish a ferry on the Missouri river."

Council Bill No. 76, "An Act concerning malfeasance in office," House Joint Memorial No. 2, and Joint Resolution Nos. 18 and 22.

I have the honor to be,
Very truly, your ob't servant,
THOMAS FRANCIS MEAGHER,
Acting Governor.

Mr. Spratt introduced C. J. R. No. 28, which was adopted.

Mr. Bagg introduced the following resolution:

Resolved, By the Council of the Legislative Assembly of the Territory of Montana, That we, as members of the Council, tender to the Hon. Anson S. Potter, the President of the same, our warmest regard and respect for the kind, able, and impartial manner in which he has presided over the deliberations of this body during the present session, and as we part with him and he with us as legislators, may the existing friendship which abide with us endure while life lasts.

CHARLES S. BAGG.

Resolution adopted. Also, the following:

Resolved, By the Council of the Legislative Assembly of Montana Territory, That we as members, tender R. J. Mitchell, E. S. Calhoun, A. H. Barrett, W. D. Leach, Clerks of the Council, and to John H. Bigler, Sergeant-at-Arms, and Charles Read, Doorkeeper, our respect and thanks to each of them for the attention and friendly manner in which they have discharged their duties during the session.

(Signed) CHARLES S. BAGG.

The following resolution was offered by Mr. Bagg:

Resolved, By the Council of the Legislature of the Territory of Montana, That the Council tender their thanks to our Page, Master Perry Leonard Johnson, for the willing, ready and prompt manner he has responded to the calls of the House, with excellent and manly manner; and may he always pursue after our adjournment, the same course of conduct, that he may rise to eminence and usefulness among his fellows.

(Signed) CHARLES S. BAGG.

The following communication was received from the Governor:

EXECUTIVE OFFICE, MONTANA TERRITORY,
VIRGINIA CITY, April 14, 1866.

To the Hon. President of the Council:

SIR—I have received this morning, the graceful and liberal thanks of the two Houses of Legislation.

I called the present Legislature into action. I did so with the hope and conviction that the men designated by the people to propound and enact laws for our young community would not be unfaithful to their trust so sacred and vital.

I called the Legislature of the Territory together for the reason that I found Montana in a state, politically speaking, of imbecility and stagnation.

American communities are not properly and successfully developed unless their intelligence is let loose, and given a full and an authoritative position to express and illustrate itself.

So far from my being deceived in calling the Legislature, I have been heartily and thoroughly gratified, with very few exceptions, that indeed the Legislature has been most considerate and serviceable to our Territory.

No political prejudices, as far as I know, have interfered with the frank, wholesome and generous consideration of questions and measures submitted to the Legislature.

The Legislature have vindicated my faith in their good faith and intellectual ability, and I have to thank each member of the Council, as well as the House of Representatives, for the personal courtesy and cordiality I have experienced from them every day of the session, and which went far, I hope and trust, to subdue and soothe any asperity which *my vetoes* of certain bills may naturally have provoked.

With the truest and highest regard,

I have the honor, gentlemen, to be,

Most truly, your ob't servant,

THOMAS FRANCIS MEAGHER,
Acting-Governor.

Mr. Spratt offered the following resolution:

Resolved, That the Clerk be instructed to inform the House of Representatives, That the Council are through with their labors, and await further communications.

On motion of Mr. Bagg, the Council adjourned *sine die*.

ANSON S. POTTER,
President.

R. J. MITCHELL,
Chief Clerk.

COUNCIL CHAMBER, VIRGINIA CITY, M. T., April 14, A. D. 1866.

I, R. J. MITCHELL, Chief Clerk of the Legislative Council of the Territory of Montana, do hereby certify that the foregoing is a full, true, and complete journal of the proceedings had at the Second Session of the Legislative Assembly.

R. J. MITCHELL,
Chief Clerk.

Attest:

A. S. POTTER,
President of the Council.

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